

COST OF CLEAN WATER AND DRINKING WATER REGULATIONS TO MUNICIPALITIES

FIELD HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

JULY 26, 2004—TULSA, OK

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ONE HUNDRED EIGHTH CONGRESS
SECOND SESSION

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COST OF CLEAN WATER AND DRINKING WATER REGULATIONS TO MUNICIPALITIES

MONDAY, JULY 26, 2004

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Tulsa, OK.

The committee met, pursuant to notice, at 1 p.m. in the Price-Turpen Courtroom, John Rogers Hall, University of Tulsa School of Law, Tulsa, OK, Hon. James M. Inhofe (chairman of the committee) presiding.

Present: Senators Inhofe and Crapo.

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. The hearing will come to order. One of the few things that Mike and I do well is we always start on time. Since he'll be leaving from here—I guess you're going down to Fort Bliss, aren't you?

Senator CRAPO. That's right.

Senator INHOFE. Then back to Idaho after that.

Senator CRAPO. We have about 2,300 Idahoans headed to Iraq here in a day or two, shortly. I'm going to go down and see them.

Senator INHOFE. Well, let me, first of all, thank Mike Crapo for coming here. He came all the way from Idaho to be here with us today. I chair the Environment and Public Works Committee of the U.S. Senate, and probably our most important subcommittee is the subcommittee chair called Fisheries, Wildlife and Water Subcommittee. If you want, at an appropriate time, you can come; Kit Bond is—OK.

Senator Crapo and I recently introduced legislation to provide you, the Nation's cities and towns, with some financial assistance as your water infrastructure poses the ends of its useful life and Federal regulations start kicking in. Our bill, S. 2550, passed our committee just a few weeks ago. It's a good, clean bill. It doesn't mandate anything on you guys. It doesn't give you any new obligations, but it seeks only to help you address the problems of aging infrastructure and new regulatory requirements.

Senator Crapo, you know, like your State, our State is a fairly young State. We didn't really start feeling the problems and the pains of aging in this infrastructure until, oh, about the time I was mayor of Tulsa 25 years ago. So now it's getting to be just as serious as it is in some of the more mature parts of the country.

Now this effort was inspired by a series of studies showing pending crisis with our Nation's water infrastructure. The gap between

what we currently spend and what we need to spend as a Nation, ranges from a few billion dollars a year to some \$24 billion a year. Not only must the Federal Government fulfill its financial obligations, but it must become more aware of the actual costs being imposed by these regulations which are contributing to this gap. It's important to note that this hearing is not about rolling back protections. However, we do need to ensure that our limited resources are put where they are most critically needed to address real problems and real health threats.

Today we're going to talk about costs, what the EPA says these rules cost and what the real life experiences of you the people who run these facilities, is. Several recent rules finalized by the Administration have costs that may not be justified by the benefits. Not only—so not only do we need to closely look at the science behind them, but how the EPA derived its cost estimates.

You know, when I first became chairman of this committee about a year and a half ago, I made the announcement that we were going to do two things that had never been done in the history of the Environment and Public Works Committee. One, is we were to try to make sure to base our decisions on sound science, and the second thing is have a cost benefit analysis, so that people really will know what that cost is. And that's what we've been doing.

In 1995, Congress passed the Unfunded Mandates Reform Act. I cosponsored this, and this Act—the idea of this Act was that if we pass regulation, we pass the rules, we pass the laws in Washington, that we realistically look and see what types of financial hardships that poses on smaller- and mid-size and large communities throughout the country. The Act required agencies, before finalizing the rule that would benefit resulting in more than \$100 million annually to local and State governments, to identify Federal funding sources and the least expensive alternative or approach when it finalizes its regulations. However, despite passage of the Unfunded Mandates Acts, the Agency continues to promulgate rules that far exceed \$100 million that place financial strains on the Nation's cities and towns.

The Agency tends to assume full compliance with and success of existing regulations when calculating costs of new proposals, which I think is wrong. The Agency also fails to take into consideration the fact that all community water systems and all treatment works are not the same. They service various kinds of industrial and residential users which means that wastewater they receive can differ dramatically from plant to plant. This, in turn, affects not only the types and quantities of chemicals used to meet discharge limits, but also capital investments that may need to be made. All of which result in very different resource pressures for facilities across the country. They have different water resources, different chemical makeups and different resource pressures. Just as they cannot all be expected to use the same exact levels of chemicals to treat their water, they do not all experience the same level of cost. These differences must be reflected more strongly in the Agency's cost analysis.

A critical issue related to the cost municipalities face is how the Agency defines affordability. I think we need to take a closer look at how affordability is defined and if there are variance tech-

nologies available. EPA can, but has not, approved a variance technology for drinking water rules if it finds the rules are unaffordable to small communities. This hasn't happened yet. The EPA defines affordability as 2.5 percent of the annual median household income, or \$1,000. The median amount paid for water in 2001 was \$31 a month. In order for the EPA to find that this rule is not affordable it must cause that rate to be increased to \$83. That's an increase of \$52, which they say is not very great, but it is great to a lot of the families that are so strained, and the communities that are strained by these problems.

This speaks to one of the biggest problems we have with the bureaucrats running these programs. Congress clearly told EPA in the Safe Drinking Water Act to pay special attention to small, disadvantaged systems and yet its affordability standard reflects the median income, not that for the truly disadvantaged, causing it to find all of its rule affordable for systems of all sizes.

When we began planning for this hearing, the first thing we did was look for existing reports and analysis of the cumulative financial impact. We are working on this now. This is what we are striving to find. You can say that you have a problem with one type of treatment, and this problem is passed on to the customers that you folks today are representing. But when you have three or four that are passing on at the same time, it's a much larger amount. What we're trying to do is take a little bit of this in a cumulative affect. For instance, the city of Coweta with a population of less than 10,000 people is paying for a new wastewater treatment plant. If someone is here, not on the panel, from Coweta, hold your hand up, please. Oh, you're—OK. We flew over Coweta this morning. That is a very famous place, that's the birthplace of Bill and Vonette Bright. He was not even aware of that, were you?

Anyway, they're complying with both the disinfection byproduct rule and storm water phase II regulations. The city has also increased its rates every year for the past 5 years and anticipates more increases if help is not forthcoming.

Unfortunately, in preparing for this hearing, we were unable to find recent, comprehensive studies of the overall cost of these regulations. Therefore, Senator Crapo and I are going to ask the General Accounting Office to conduct a thorough analysis of the cumulative cost to individual communities and ratepayers of both clean water and drinking water regulations. I think this study is critical to addressing the cost issues at the Federal level and beginning a productive discussion. A lot of the testimony that comes from you guys today is going to be looked at by this effort, this study, in order to try to determine what we can and cannot do.

So with that, before I turn it over to the chairman of the subcommittee, I would like to mention that this morning we got in a little airplane, and I flew Senator Crapo over all the communities that are represented here today except for Norman. We didn't get quite that far down. Then we kind of look at this and see—so he has actually looked at your communities firsthand and has an opportunity to know a little bit about what the communities are.

With that, I will just turn it over to any comments you might want to make.

**OPENING STATEMENT OF HON. MICHAEL D. CRAPO,
U.S. SENATOR FROM THE STATE OF IDAHO**

Senator Crapo. All right. Thank you very much, Mr. Chairman. First of all, let me thank you for the invitation to come here to Tulsa. I have been treated very warmly and wonderfully by the people of Oklahoma. I certainly expected that, having known so many great Oklahomans in my experience in Washington, DC. But I just wanted to thank you for your tremendous hospitality and to tell everybody here that you have an outstanding Senator. I served in the House with my good friend, Jim Inhofe, before he ran for the Senate, and then was lucky enough to be able to join him in the Senate, and worked with him on issue after issue for virtually the entire time that I served in the U.S. Congress. It was an honor to be asked by Senator Inhofe to come and join him today for this hearing. He is an outstanding chairman. You're very fortunate to have someone of his caliber to fight for you on these issues and especially, to be the chairman. Now, he asked me—or told me it would be OK if I told you a little story about the committee. The committee as he indicated is the Fisheries, Wildlife and Water—

Senator INHOFE. Subcommittee.

Senator CRAPO. My subcommittee, that I chair. When I first got to the Senate, it was actually called the Fisheries, Wildlife and Drinking Water Subcommittee because the then chairman, Senator Chafee, from Rhode Island, kept all the other water jurisdiction except for the drinking water statute to himself at the full committee level and didn't let the subcommittee have it. So this chairman is confident enough in himself that he's willing to let the subcommittee chairmen do their jobs. The subcommittee is now the Fisheries, Wildlife, and Water Subcommittee. But the story has to be told with the other name, it was Fisheries, Wildlife and Drinking Water Subcommittee. I had just gotten elected to the Senate. I served in the House. In the House, you have to be in the House a long time to be able to do a committee chairman. I wasn't thinking about being a committee chairman, but (inaudible) came in the first week I was in the Senate and said there are fewer Senators and so you're going to get to be a chairman of the Subcommittee for Fisheries, Wildlife and Drinking Water. I thought that was great. Then the next day my staff came back and said, "well, there's a—maybe we spoke too soon, because another Senator is going to challenge you for that chairmanship. He wants it." It was Kit Bond from Missouri. He had been there 20 years or plus, and I had been there 2 days, and I figured that he had more friends in the caucus than I did at that point, so I thought, "oh, my chances of being a chairman are kind of toast." But he already had a full committee chairmanship and another subcommittee chairmanship on the Appropriations Committee. So under the rules, you're supposed to let some of us junior guys have a shot at it.

The caucus stuck with me and let me keep it. So the story now is he came to me afterwards and said, "Mike, it's no—you know, nothing personal. I just think that that committee, that subcommittee, is the best committee in the entire Senate." I said, "Well Kit, I'm really glad to know that it's not personal, but what do you mean it's the best subcommittee in the whole Senate?" And he said, "Well, just think about it. It's fisheries, wildlife and drink-

ing water. That's fishing, hunting, and drinking." And I said, "Well, that's true, Kit, you have given me a whole new perspective of the committee, but it is drinking water."

He said, "Well, we have this thing—this substance we get out of Tennessee that we add to the water that helps kill the germs, and it makes it much better." Anyway, we had some fun with it. But the fact is that the committee has very, very broad jurisdiction. We have the subcommittee. We have the Endangered Species Act, the Clean Water Act, the Safe Drinking Water Act, and many other very critical issues for having resources. I will make this very brief because Senator Inhofe has very, adequately and accurately explained the issue. We've been working—that was 6 years ago. I'm in my 6th year as Senator. We've been working on this issue for that entire 6 years trying to address a multiplicity of the issues that surround our aging infrastructure for our water systems in this country. We have big issues under both the Clean Water Act and the Safe Drinking Water Act. There are lots of different studies that try to guess and speculate as to how costly it will be for us to upgrade our infrastructure in this country so that we can maintain our clean water. It is the envy of the world. In my opinion, this issue is one of the most, if not the most important environmental issue that we have in the country. These studies, in terms of the amount of dollars that it will take nationwide, range from several hundred billion dollars to up to a trillion dollars of need depending on whose numbers you use. The point being that it is a massive issue of critical importance to Americans. So we have now just a few weeks ago put out legislation that, like I say, it's taken us 6 years to get to the point where we can get it to this point. This legislation will address the issues from multiple perspectives. We will look at the standards. We will look at efficiencies, if you will in the administration of the accounts. We will look at the questions of unfunded mandates and try to make sure that we reduce those to the maximum extent possible. We will strengthen and reform the revolving loan funds to try to get resources to the ground where they're needed as quickly and efficiently as possible. But we will need to do that with help from the people throughout the country. Because there are—as I said, there are tremendous battles in this country over how to do this and whether to add more bureaucracy, more requirements, more mandates or whether to streamline the process. It's one of those issues where I'm very interested today to see what these witnesses will tell us. I have seen your communities. I have not visited with you yet about that. I can tell you that Idaho has very similar communities and very similar circumstances. It's one of the most common problems that we face now with communities who don't have the ability to generate the economies of scale that larger population centers do, facing very, very expensive Federal mandates that don't come with the resources to accomplish them. I expect that we're going to get that kind of information to us today. But Mr. Chairman again, I thank you for your support and your interest in this issue. I also again thank you for the invitation to be here and look forward to the testimony.

Senator INHOFE. Thank you very much. So that you know how we are going to do it, we have as witnesses today Mr. Charles

Hardt, public works director of the city of Tulsa. I might add that 25 years ago when I was mayor—was it 25 years ago or longer?

Mr. HARDT. A long time.

Senator INHOFE. Yes, a lot longer than that. Charles Hardt was there. He hasn't changed any. So nice to have you back, sir. Robert Carr on behalf of the cities of Owasso and Collinsville. Mr. Arvil Morgan, Wagoner. We went over Wagoner this morning. Mr. Ken Komiske. Am I pronouncing that correct?

Mr. KOMISKE. That's correct.

Senator INHOFE. Komiske, from Norman. Rick Bourque, city manager of Wewoka, and Clay McAlpine, the director of engineering for this city of Muskogee. Clay, I have to say that when we were coming down over Muskogee, I pointed out the submarine, the USS Batfish, and that was my project in 1969, I think it was, when I was a State Senator showing tons of stories that we are navigable in Oklahoma. A picture does that better than a report. There it was on the cover of all these industrial publications coming across the State line of Arkansas into Oklahoma. So not many people would know that we can bring a 300-foot submarine all the way from Orange, TX to Muskogee. We are going to—in order to stay on schedule, we have some questions we want to ask you but your opening statements are going to be probably the most critical part. You've been instructed as to what types of problems we want you to talk about. The information you give us is going to be used in studies that we're talking about performing. You may well serve as a model in helping us serve as a model for the State of Oklahoma for getting some of these problems resolved. What we will do is take you in the order that I just read your names, instead of having two panels, I'm going to do you all as one panel. I'm to ask you to confine your opening statement to 5 minutes, but the most you can go over is 2 minutes, all right? So if you try to do that, and then we—give us a chance to respond to some of your questions. We will start, Charles, with you.

Charles Hardt, the city of Tulsa.

STATEMENT OF CHARLES HARDT, PUBLIC WORKS DIRECTOR, CITY OF TULSA

Mr. HARDT. Thank you very much. On behalf of this group, as well as the other communities in Oklahoma, we want to thank you Senators for taking your time to hold these hearings. We also want to express our appreciation for the State revolving fund program and the continuation of that as well as the expansion. Tulsa has participated in to the tune of \$250 million so far, in the wastewater program and lending process. It's absolutely critical for us to be able to implement our infrastructure upgrades. We also want to thank you, Senator Inhofe, for your tremendous effort on the reauthorization of the Transportation bill and the significance it has to the city of Tulsa. It's absolutely vital to meet Tulsa's growing needs and continuing to keep up with our infrastructure capacity. Tulsa's water supplies are primarily surface water. We get our water, drinking water from two reservoirs. One coming out of the mountain areas over in Arkansas and the other to the north from Kansas. The greatest threat we've had today has been the challenge of nonpoint source pollutants. These are primarily agricultural water

sheds with virtually no urban development, and therefore, we haven't had the point source issues that normally plague and cause the problems for our surface water supplies. Since the 1970's, the regulatory process has really focused on point source discharges. As a part of that, we have made major efforts in communities in the Nation in dealing with our discharges and our surface runoff protections through development processes and other treatment needs.

But the city of Tulsa found itself in the early 1990's with an increasing problem that we were unable to deal with from the standpoint of having the capability of handling it ourselves. We actually had to discontinue the use of our water supply for over a month because of the taste and odor problems relating to new green algae from the high nutrient loading in our water shed. So as a result, we finally—we had considerable negotiations with poultry industries. As a result, we finally went to litigation. Are nearing the first year of a 4-year settlement agreement and in the process of trying to identify best management practices and through the use of Federal programs, as well as the 319 funds, to deal with erosion—I mean, the pollutant problems. But we find ourselves with the problem of trying to change behavioral practices in a very competing industry in a very short time period. Three years seems like quite some time, but really, whenever you consider that we really are trying to change, fundamentally, the behavioral practices of mom and pop farmers and the people who grow the chickens and dispose of the litter, we find that that's really a very tough situation dealing with two States, two different regulatory processes and the tremendous differences that we incur. So, therefore, we strongly encourage the development and implementation of regulatory enforcement mechanisms to control nonpoint source pollutants discharges of the Nation's water. We really need that overall umbrella that helps us all work to a common goal.

For water quality standards, we think the great issue that's challenging, probably more to Oklahoma than any other one State, is the issue of tribal designation for setting standards. In Oklahoma, we have 38 tribes that could theoretically—that these are all recognized Federal tribes that could impact, then, our water quality standards, both for our drinking water standards as well as other projects such as transportation projects that go through multiple boundaries, both for clean water, as well as, then, the issues of air quality standards. So we would strongly encourage the legislative amendment of Section 401 of the Act, which authorizes certification of water quality standards developed by Native American tribes. We certainly want to meet all water quality standards that provide safe drinking water to all of our citizens, but we feel that there's a better way of doing it than each individual jurisdiction being able to set their own standards.

In the process—well, the questions did ask for cost estimates. We have spent over \$5 million on the nonpoint source pollutant discharge problems with everything from setting up our test, as well as ongoing, we are spending \$250,000 a year annually just to deal with that issue. On the issue of the Water Quality Standards for Tribes, that could be very significant to someone involved in multiple jurisdictions. Water Quality Standards implementation of the issue of sound science, we are meeting—the staff is meeting in

Oklahoma City this afternoon with the Water Resource Board to try to deal with establishing acceptable analytical methodologies, requiring strict adherence to industry-standard, quality assurance, and quality control protocols when monitoring water quality compliance with standards. Since my time says stop, and I'm into my 2 minutes, I won't get into the detail. But this issue, just for monitoring one factor that there was a parameter that it was identified by an invalid, erroneous third party testing—a field screening test, we wound up having to spend \$20,000 just to deal with the fact that we had several streams that became invalidly, erroneously listed on the State's list. So these kind of things, if multiplied to a variety of other perimeters, could cost us a hundred times that kind of costs.

Senator INHOFE. Thank you, Mr. Hardt.

Mr. Carr, just because you represent two communities does not mean you get twice the time. We went over both communities this morning, to show where the home of the Rams was.

**STATEMENT OF ROBERT CARR, ON BEHALF OF THE CITY OF
OWASSO AND THE CITY OF COLLINSVILLE**

Mr. CARR. Well, we want to thank you also for taking your time to come and be able to hold this hearing here in Tulsa. I'm representing also the Oklahoma Municipal Utility Providers as the chair of the Technical Advisory Committee, as well as the cities of Owasso and Collinsville. The Oklahoma Municipal Utility Providers was established in January 2003, by the Oklahoma Municipal League to represent the water and wastewater interests of municipalities. Since its inception, 1½ years ago, 214 Oklahoma municipalities have become members of OMUP. This rapid organization growth is indicative of the collective magnitude of concerns, with respect to water related issues in the State of Oklahoma. Data collected by the OML indicate that rural and urban communities in Oklahoma have long-term financial concerns. The OML reports that 43 percent of the average year 2002, Oklahoma municipal revenues were the result of utility fees. Average expenditures for utilities were reported to be 39 percent. Therefore, the average revenues and expenditures for Oklahoma utilities are essentially equal. But the expenditures that were reported do not reflect depreciation or unbudgeted out-of-pocket expenses or unfunded mandates.

Sales tax revenues largely in Oklahoma have been extremely volatile for the past few years. Municipalities have determined that they cannot count on sales tax revenue for stability.

Many of the municipal budget short-falls experienced have had to be subsidized by utilities revenues. As a result, utilities operations have been stressed to achieve consistent results with limited or nonexistent additional funds to meet changing operational conditions and to meet new regulations.

Data compiled from work done by various consulting engineers in Oklahoma, U.S. Environmental Protection Agency fact sheets, information from the Association of State Drinking Water Administrators and the Oklahoma Department of Environmental Quality staff, indicate all water customers can expect higher monthly bills as a result of recent regulations. The construction needed may increase water bills as much as 60 percent per customer.

Changing regulations have complicated the abilities of municipalities that they have to make long-term financial decisions to provide quality water to customers.

We design our capital improvements to make investments in facilities that are based on the requirements and regulations that we know of today. When requirements become more restrictive, then alternatives are expected to become more costly.

Few options are available to the small utility, however. To have control of their own operation, the small utility may be faced with locating new sources of supply. Economies of scale are more favorable to the larger utility that can absorb additional treatment costs among more customers. In addition to fiscal impacts, the Oklahoma Municipal Utility Providers questions whether cost versus benefit have been adequately addressed prior to implementation of regulations. For example, in a January 16, 2004, letter to the U.S. Environmental Protection Agency from the American Water Works Association commenting on the proposed Stage 2 Disinfectants and Disinfection Byproducts Rule, the following was stated: "In reviewing the EPA cost benefit analysis, the AWWA found significant issues affecting the reasonableness and credibility of the final conclusion in nearly every step."

They went on to say that the EPA may have overstated total benefits considerably. Similarly in a January 9, 2004, letter commenting on the proposed Long-term 2 Enhanced Surface Water Treatment Rule, AWWA stated they were very concerned that the Agency's economic analysis documents have created an unrealistic expectation and implied a significantly greater benefit that will actually be realized through implementation. These comments are concerning to the Oklahoma Municipal Utility providers, as it is members municipalities that are faced with more restrictions and increased costs. Municipal water suppliers are charged with the fiscal responsibility of investing public funds in a manner that protects their investments, where there are no uncertainties pertaining to the need for additional improvements to meet future regulations.

Senator INHOFE. Thank you, Mr. Carr. Thank you very much.

Mr. Morgan, you are representing the Wagoner County district, so that incorporates several communities.

**STATEMENT OF ARVIL MORGAN, DISTRICT MANAGER,
WAGONER WATER DISTRICT NO. 5**

Mr. MORGAN. Yes. Again, I thank you for hearing what we have to say. I live in Coweta. You were talking about being a small town, I represent a rural water district that is a lot smaller than that, so everything that—you know, we get our water from the Verdigris River. We have about 2,550 tap holders. Back in 1989, 1990, we decided it's better for us to build a plant, operate our own deal. So we did. We built what was—what we were told was the latest and greatest thing on the market package plants. It worked real good until the disinfectant bylaw changed. Our plant will not produce water that will get us in compliance.

Because of that, we're going to have to spend—I've visited with the engineer. It's going to cost us about \$1.5 million. That don't sound to be—that's not a whole lot for these big cities, but when

you talk about the rural and a lot of them are low income houses, you divide that up among 2,550, it's going to be very expensive. We have tried every way in the world to get what we've got to work, and it just won't. We've got to build on to our plant to make it work. There's probably about 250 plants in the State that's going to be—that's just about like we are, small plants. So statewide, this is going to be very expensive. And that's our biggest concern, is where do we get the money and how can we afford to make these changes.

The rural—the Water Resource Board has been real good about helping us out financially, Rural Development, but because Wagoner County, there is a consensus. They ran an economic study, I guess. Anyway, we don't qualify for any grants. So it's all going to have to be borrowed money. So we're kind of up against the wall. We need some help from somewhere, whether it be some time on our—bylaw, disinfectant bylaw change, or money, you know, we need some help from somewhere. That's what we're doing here.

Senator INHOFE. Well, good. Before proceeding on to Mr. Komiske, let me just make a comment on something that Mr. Hardt said. I know this community was interested in this same thing. On the Transportation bill, what we did—the last thing we did before we left, was have a conference. I chair the conference between the House and the Senate. There are 72 members of the House and Senate on that conference.

Our problem has been—and I have to be critical of our own Administration in this respect—that without any regards to how it's being paid for, they wanted to have a reauthorization of a Highway bill for the next 6 years to be under \$256,000 billion. Now, if it doesn't—if it's done user fees and it's not—and the users are not complaining about it, it would seem to me that it would be unnecessary or unwise to veto a bill merely because the number, even though it doesn't add to the deficit, is higher. Quite frankly, the House went all the way down in their bill from \$270–\$375 billion down to \$284 billion. We're trying to get that back up to about \$289 billion, in which case we will be able to do something about such things as (inaudible) states and other problems. Right now Oklahoma is tied with Missouri, dead in last, in our condition of our bridges. So we have to do something about it. I just wanted to say that to you, Charles, I know you're interested. We fully intend to go back after this recess. The staff is working on coming up with the elements of the bill that we have left in their hands. We, hopefully, will be able to pass one when we get back in September.

Mr. HARDT. Very good. Thank you.

Senator INHOFE. Mr. Komiske, excuse me for the interruption there.

STATEMENT OF KEN KOMISKE, PUBLIC WORKS DIRECTOR, CITY OF NORMAN

Mr. KOMISKE. That's fine. Thank you for the opportunity to be here. My name is Ken Komiske. I'm the director of the utilities for the city of Norman. With me in the audience is Bryan Mitchell. He's one of our lead engineers. He's been with Norman about 6, 8 years. I've been with the city of Norman about 10 months.

Senator INHOFE. Hold your hand up, Bryan. There you are. OK.

Mr. KOMISKE. So if there is any historical references or anything, Bryan can probably answer that. But I think he's here to make sure I don't say something stupid.

Senator INHOFE. Well, let me interrupt you at that point and stop the clock and introduce Michele Nellenbach, who is behind me. Michele, she is the one who came here from Washington to keep me from looking stupid, so we all have that.

Mr. KOMISKE. Fair enough.

Senator INHOFE. Start the clock.

Mr. KOMISKE. Well, Norman is well aware of the importance of wastewater and water issues, and as such, an important piece of finding more water, finding additional water, and treating water, is water conservation measures.

We do have a lot of measures in place, and we're aggressively continuing that. We have, of course, the newspaper ads and the educational pieces, and we also provide conservation kits to homeowners, so the homeowner or residences can use less water. But the very important piece, is the residents and citizens voted for an inverted rate block, which means that the more water a residential customer uses the more expensive it gets per unit. So that helps keep conservation in check. By going over 20,000 gallons per month, the water rate per thousand gallons actually doubles. So with that in mind, Norman historically has enjoyed economic diversity, and as such, in this graph here, you can see that we have grown and our water usage has increased. We get our water from two sources. We have—the turquoise band on the bottom is from Lake Thunderbird. It's a manmade reservoir. Then the yellow band across the middle is from our well fields. So we have 31 wells, and you can imagine, the wells vary in age and size, and so at any one time, there's probably 27 of them that are working. So that's our average day demand. If you look at our peak day demand, which I think we have done a very good job in keeping in check or under control, is our peak day demand is about twice our average day demand. That's not really bad for a community our size, because a lot of communities in an area as this, such as, Idaho and the Boise area, I used to live there, or Oklahoma where it's very, very warm, you can have peak day demands of sometimes three, three and a half times your average day. So we have twice the average day demand, but if you look—the point of this is we are looking at what are—where it was and what we will need in the future. If you go out to 2040 to meet the peak day demands, we will be needing about 60 million gallons a day. Our average day right now is 11. Our peak day is about 23. So we are going to need a considerable amount of water. As such, we did a water plan in 1999 to get our arms around this monster and, essentially, say where are we going to get this water from. We came up with a plan that is on Figure 3. It looks like it would cost about \$80 million to supply the growing needs of Norman. That would be with additional water treatment plant capacity and, perhaps, a buffer reservoir, essentially, attached to the Lake Thunderbird and definitely to increase the well supply that we have. So we're looking at that, and in Figure 4, along came the Arsenic Rule. This is the important figure.

If you can look at that picture, that diagonal line across which is actually Route 77, has a whole bunch of little white dots. Those

white dots are wells that have been working—some of them for quite some time, that will be put out of service because of the Arsenic Rule. So out of 31 operating wells, or at least 28 operating at any one time, we'll be losing half of our supply of well water due to the arsenic rule.

If you have a colored picture you can see that some of the other wells are grouped in clusters. That's our way of getting around this monster, is that some of the wells can be combined, so we can put some wells with good water in with some of the wells with bad water and mix the water together and still end up below the arsenic level. So we'll use 15 wells. Seven wells will be combined and blended and seven wells will actually have to have all their water transported back to the water treatment plant, mixed with the surface water, and then released back into the system. So that's where we are on that. This expansion or this change that we really weren't expecting prior to 1999, I suppose, will cost about \$9 million.

So before I go into the wastewater thing, I'm running out of time. That's really what we wanted to talk about in terms of water supply and where we were. We have a \$9 million elephant looking at us, and we have to get our arms around that.

Senator INHOFE. All right, sir.

Mr. Bourque.

**STATEMENT OF RICK BOURQUE, CITY MANAGER,
CITY OF WEWOKA**

Mr. BOURQUE. I would first like to take this opportunity to thank Senator Inhofe and Senator Crapo for holding this hearing and for giving the city of Wewoka a chance to speak out about these important issues. Senator Inhofe, as you know, when you served as mayor of Tulsa, managing a city is never an easy task. Unlike the Federal Government, we do not have the capacity to run deficits. We should always balance our books. This is difficult enough in the best of times, but when these outside factors like unfunded mandates come into play, it is almost impossible.

This is especially true in a small town like Wewoka. Wewoka is a very diverse town. It was founded by a former Indian slave in the Seminole Nation, has lived through the booms and busts of the oil industry, and has suffered many hardships along the way. Seminole County, where we reside, currently has one of the highest unemployment rates of the State, almost 20 percent. Population has been steadily declining for the last several years and so have sales tax revenues.

This is true not just in Wewoka, but in small towns across the State. I tell you this not to be pessimistic. Actually, we are very optimistic about our future. I merely want to point out that small towns like ours have dwindling resources and cannot afford the cost of heavy-handed regulations and unfunded mandates. There are many examples of this that I can speak about. But in the interest of time, I have limited it to just a few.

One example of how unfunded mandates complicate the business of city government is in the area of excessive and constantly changing regulations in our drinking water. Most cities have a sizable investment in their water treatment facilities. Wewoka is no excep-

tion. We take very seriously our duty to provide safe, clean, and affordable drinking water to our citizens. However, city management and budgeting requires not only making the books balance to date but budgeting for the future as well. This is extremely difficult when the EPA and DEQ constantly change the standards. Some of the changes are dubious, at best. Take for example, the issue of turbidity. Turbidity, as you no doubt have heard, relates to the cloudiness of water. Just as the lake that supplies our drinking water turns over every year, becomes cloudier or changes slightly in color or transparency, so too does our drinking water. This is turbidity. It does not indicate that there are any chemicals or trace elements that affect our water quality and public health in any way. Neither are these standards remaining static. They are constantly changing. The turbidity standard has changed recently. It will only change and reduce in the future. Those arbitrary standards are having a considerable impact on the ability of small towns to continue providing water to their citizens, without enormous capital expense. This is not the only example of such standards only one of the more recent.

Another problem I would like to speak to you about today, concerns our city's sewer treatment plant. The city of Wewoka is currently under a consent order for water infiltration into our system. The consent order states that we will build another facility to replace the existing one and correct infiltration problems in the sewer distribution system. The current project price is around \$4 million. In trying to comply with the consent order, there have been numerous problems that have only served to delay and complicate the issue and to add to the already excessive cost. For example, DEQ and EPA require that the city commission do a study to determine needs and costs involved in making the necessary changes. However, they required that we hire an outside engineer to do the study rather than use the city engineer. Rather than completing the study in-house and with minimal cost, the city had to hire a consultant and pay nearly \$400,000 to complete the study.

So, with the prospect of \$4 million worth of repairs looming over our heads, which we cannot afford, the bureaucratic requirements are only adding to the problem.

Another factor that adds to this problem is that in the 6 years that I have been the city manager of Wewoka, I've worked with four different regulators from DEQ and EPA. Each time employment changes, delays occur, because the new employees are unfamiliar with our city or the consent order it operates under. Furthermore, regulations change so often that when preparing a final engineering report, we have to amend our plans several times. Furthermore, they have requested additional information on three separate occasions and they still have not approved our report. All of these factors have delayed the process and have made it more costly.

We estimate that by the time we begin construction of the new treatment plant, we will already be looking at regulations that will put us out of compliance. Once we are under a consent order, we have no other avenues to pursue other than seeking funding to help pay for these improvements. Naturally, these costs will be passed on to our consumers. We estimate that a surcharge—a min-

imum surcharge of \$20 could be accessed to every water meter in Wewoka. When one out of every five citizens is unemployed and the average income is near or below the poverty line that cost is excessive. I'll just stop with that.

Senator INHOFE. All right. Mr. Bourque, thank you very much.

**STATEMENT OF CLAY McALPINE, DIRECTOR OF
ENGINEERING, CITY OF MUSKOGEE**

Mr. McALPINE. As a member of the Oklahoma Municipal League Technical Advisory Committee on Water Issues and the director of engineering for the city of Muskogee, I would like to thank you and your committee for this opportunity to speak with you concerning growing costs associated with the new provisions of the Safe Water Drinking Act. The city of Muskogee operates a regional water treatment plant supplying water to approximately 55,000 people. Although our water plant is quite old, the city has made numerous modifications and upgrades to meet the needs of the customer and maintain compliance with the treatment regulations. Our water system was in compliance with all of the provisions of the Act prior to 2002.

January 2002, ushered in new regulations that include the Interim Enhanced Surface Water Treatment Rule and the Stage 1 Disinfection Byproducts Rule. Compliance with these regulations have placed a significant burden on our plant and our budget. We began making modifications to our treatment process in 2000. We were looking for the best treatment method using existing equipment and different treatment chemicals to achieve compliance.

Prior to the recent change in regulations, utilities and chemical costs represented about 50 percent of our overall treatment costs. Utility and chemical cost fluctuate the most and consequently are the hardest to control. Labor, upkeep of equipment and insurance represent the remaining costs. The cost of chemicals has changed as a result of the new regulations. Before the regulations went into effect, chemicals represented about 21 percent of the overall treatment cost. With the addition of the new treatment regulations, we have seen this cost go as high as 37 percent of our overall cost.

In your handout, I've included a table that outlines our costs for the last 5 years. Just to briefly tell you that the—prior to the regulations in 1999, our chemical costs were \$259,000 per year.

That represented a cost of about five cents per thousand gallons of water produced. Last year in 2002, 2003, those chemical costs have gone up to \$537,000 and that drove the chemical cost per thousand up to 12 cents per thousand gallons, so you can see that the cost almost doubled.

Unfortunately, changing chemicals and increasing their feed rate has not brought about compliance. We are in compliance with regards to Trihalomethane, Haloacetic Acids, and Turbidity, but we are still having problems with the Total Organic Carbon Removal Rule. Recent plant trials have shown positive results, and we are confident that within a short period of time we'll be able to achieve compliance even with this.

When the treatment costs increase, other items are sacrificed. In this case, funds that could have gone to replace old and aging water system infrastructure have been diverted to treatment. I

can't help but question if we are best serving the public's interest by reducing the level of Trihalomethane from 100 parts per billion to 80 parts per billion, or should we be replacing the old, 2-inch water line in front of someone's house with a 6-inch water line that provides fire protection.

I'm very concerned with the provision of the Stage 2 Disinfection Byproducts Rule. These proposed regulations will eliminate the utility's ability to average the Trihalomethane and Haloacetic Acids across the system. The regulations will require the company to identify the hot spots with the highest readings and start monitoring these areas for compliance.

The preamble for these regulations, with regard to the Disinfection Byproducts dated October 17, 2001, do not really make a compelling case for the risk associated with the long-term exposure to byproducts. Page 45 of the report states "As in the Disinfection Byproducts Rule, the assessment of the public health risk from disinfection byproducts currently relies on inherently difficult analyses of incomplete empirical data." The tone of the preamble "it is appropriate and prudent to err on the side of public health protection." I really wonder if the question is, are we truly serving the public health's interest in the most cost effective manner. Especially, since the cost—the added cost is preventing the utility companies from doing more basic improvements than have proven their worth over time. Of course, our goal is to provide customers and citizens with an abundant, safe and dependable quality drinking water that meets all health and environmental guidelines at a cost that they can afford. Please keep this in mind when reviewing the need for these additional regulations. Thank you very much.

Senator INHOFE. Thank you, Mr. McAlpine. I would like to see a show of hands of how many people are here representing a community that is not on the panel? All right. There are about five, six, seven, out there. We're going to leave a little time afterwards to visit with you individually, and then we'll have some instructions on how to get something into the record that might serve to be beneficial to you. Let me ask all of you the same question and then I have some specific questions. But I will turn it over to Senator Crapo for his questions first. As I mentioned in my opening statement, one of the requirements of the Mandates Reform Act is that the EPA identified Federal resources to assist the local government to pay for—that's the law. We passed that law. The legislation that Senator Crapo and I have introduced seeks to provide a Federal share of this cost. Now, I'd like to ask each one of you, so that we will have it on the record, how much financial assistance has each of you received from either the Federal or the State governments. If you don't have that figure, you can do it for the record, which means you can followup with a letter later on and give us that information, perhaps, you can give us an approximate amount.

Mr. Hardt.

Mr. HARDT. On the wastewater side, we have spent \$250 million to date in round numbers. We've had no loans on the water treatment side.

Senator INHOFE. So the answer is nothing, then?

Mr. HARDT. Zero on the water.

Senator INHOFE. All right. Fine.

Mr. Carr.

Mr. CARR. The city of the Owasso has received \$21,176,000 from the Oklahoma Water Resources Board through loans for improvements on the wastewater treatment facilities and improvements within our wastewater collection system. We have received no funds for water. We do not have a water treatment facility in Owasso. We purchase our water wholesale from Tulsa. The city of Collinsville has received \$915,000 for water treatment facility expansion and some improvements in the wastewater collection system.

Senator INHOFE. Is that Federal?

Mr. CARR. No. Again, that's through the Water Resources Board.

Senator INHOFE. OK. That's a loan?

Mr. CARR. Yes. There has been a \$55,000 emergency grant received from the Oklahoma Water Resources Board for some repairs to raw water pipeline.

Senator INHOFE. All right.

Mr. Morgan.

Mr. MORGAN. We've got two loans with the Oklahoma Water Resources Board for just updating our system that we have in the regional plant that we built. It's \$4.1 million.

Senator INHOFE. Now, I assume that some of those loans you are getting from the State are—involve Federal moneys. If you have that backup on that, maybe we should know that too.

Mr. Komiske.

Mr. KOMISKE. Yeah. We have received two emergency grants for \$200,000; \$100,000 apiece. These were really particularly for subdivisions, essentially, where there would be a particular subdivision that their wells were all going bad, and so they needed emergency grant to be able to run the pipeline connection to our water system. That's what both of these issues were. As far as the State water revolving—the State revolving fund, we received about \$12 million for wastewater projects. I think what's unique to Norman is Norman cannot change the rates for its utilities unless it's voter approved. So when we do receive a revolving fund like this, or a loan, it can only be for 40 percent of the project, because we can't have revenue bonds, because we can't guarantee the revenues, because the citizens may not vote for the increase in rates. So that's kind of a unique situation.

Senator INHOFE. Do any of the rest of you have that same problem? That's one that I was not aware of so—where it has to be voted in order for the rates to go up? I know you don't in Tulsa. Is anyone—Mr. Komiske?

Mr. KOMISKE. We do have some stag grants EPA for wastewater projects that total \$3.9 million.

Senator INHOFE. OK. Good.

Mr. Bourque.

Mr. BOURQUE. We have received about \$18,000 for emergency—through emergency funds for repairs to the water distribution system. We have incurred debt in the amount of about \$200,000 to bond indebtedness to do improvements on our water system. Currently, we're waiting on approval of our final engineering report,

which we will be seeking a loan of about \$4 million through rural development through the Oklahoma Water Resources Board.

Senator INHOFE. All right.

Mr. McAlpine.

Mr. MCALPINE. The city of Muskogee has received 11 loans on our wastewater side from the Oklahoma Water Resources Board, totaling \$57 million. Most of these loans were backed through the Federal Government. That breaks down to six loans from the Clean Water State Revolving Fund for \$35 million and five FAP bond loans. We haven't had any loans with regard to our water system.

Senator INHOFE. All right. Thank you very much.

Senator CRAPO.

Senator CRAPO. Thank you very much, Mr. Chairman. I want to go over just a couple of questions. I was interested in a statement that you made, Mr. Bourque. Several of you have indicated—in fact, I suspect in one context or another, I can safely say all of you have said that new regulations have put previously existing—previously—the system that was previously in compliance, out of compliance.

But Mr. Bourque, you said it in a way that was just striking actually. You said we estimate by the time we begin construction on the new treatment plant, we will already be looking at regulations that will put us out of compliance.

Mr. BOURQUE. Yes, sir. They change so often. There's already been things that we've had to change within our engineering report that's changed since we submitted the engineering report. They keep asking for more information.

Senator CRAPO. I can understand the frustration of that. It frustrates me to hear you say that.

Let me expand this question to the rest of the members of the panel. Is that a common experience? Anybody else?

Mr. Hardt.

Mr. HARDT. Well, we certainly try to project whenever we do an improvement to a plant, what's being discussed as anticipated requirements as well. So we probably go beyond the limit at that time just to insure that we don't become noncompliance.

Senator CRAPO. If you're just right, you're OK?

Mr. HARDT. If we're just right, we're all right otherwise, we may have been—provide a little bit more treatment capacity than was needed.

Senator CRAPO. Does anybody else want to comment on that in general?

Mr. Carr?

Mr. CARR. Yes, Senator, the city of Owasso, city of Collinsville, and two of the surrounding rural water districts are presently looking at a regional water plant. I had neglected to also indicate that that was some funding through EPA of about \$100,000 to fund this study. This study is going to potentially impact decisions that will be very long-range decisions that could be made. With the change of regulations, it's like shooting at a moving target trying to determine what your cost of operation and cost of construction may be. So I'm expecting that we're going to have some very difficult decisions to be making in the next few months.

Senator CRAPO. Anybody else on the panel want to weigh in on that particular issue?

Mr. Komiske.

Mr. KOMISKE. It's not exactly the same, but our issue in Norman, because the citizens do have to vote on rate increases, which affects all the utilities, it's a little bit difficult to address multiple funds. So we have—you have to educate the customers and the citizens that this is a wastewater issue and these are things that are needed.

These are things that are mandated. They're good for the environment. You get them to vote for an increase in their own rates. You say, OK, that's over, but really that's not over because you have the same thing on the water side. So you have the wastewater side over here. We just got through with a sanitation rate increase. It's like you're constantly going back saying we need you to raise your own rates, and for different issues, but all the citizen says is my utility bill is going up.

Senator CRAPO. Let me ask you, that's maybe a good segue into the next issue I want to get into.

Senator INHOFE. Before you go there, let me reflect those communities back here who have—you might have some testimony, we're going to ask for your testimony to become part of the record, but, specifically, that—I was going to ask the same thing that Senator Crapo asked. Changes, either the standards from EPA or from other groups, the particular hardships, that's very important for us to have a good background on this. So if you would take notes as we go along so we can get the information from your respective communities, that would be helpful. Excuse me.

Senator CRAPO. Certainly. Each of you testified and as I went through your written testimony, I tried to just do some math and calculate what it meant to the customer to each of these particular issues that you may have highlighted.

I'm not going to go through all that with you. Anybody who is interested can go through the testimony and do that.

But Mr. Komiske, let me followup with you. What happens in your community, if the voters don't approve the increase in their rates? I mean, you still have to upgrade your system.

Where does the money come from?

Mr. KOMISKE. Luckily, we have enough of an education process and enough lead time that you actually have to go through this with all of your customers. You have to let everybody understand the concept and reason why we're doing this. In some places we would have some options, like the sanitation rate increase. If that did not go through, we would just have to cut services, so the services they would have would go down. In wastewater issues, we wouldn't have the option of providing less water, but it would have to probably come out of the general fund. It's one—and those are one of the things we wrestle with on the city council side constantly, is some of the citizens think it should come out of the general fund, but we have enterprise funds that we think that the utilities should pay for itself. You use the water, you should pay for the water, you use the wastewater service, you should pay for it.

Senator CRAPO. I think that's a principle that we all agree with throughout the country, that the systems ought to pay for them-

selves, except as the systems continue to grow in expense. Whether it's the system—whether it's the procedure you have or the voters get to approve or whoever gets to approve it, at some point, the utility rates that we charge simply exceed what we see communities able to charge in their communities. I'm assuming that that creates pressure on the general fund?

Mr. BOURQUE. Absolutely.

Senator CRAPO. Is that correct in each of the communities? Do you, in any of your communities, utilize general fund moneys to supplement these budgets?

Mr. HARDT. Speaking of Tulsa, we do on the capital improvement side. We would go to the voter for capital and bond issues or sales tax for capital projects, but for operating the enterprise funds, no.

Senator CRAPO. Any others? Is anybody here at this point, utilizing general funds? I don't see any responses in the affirmative, although, I did see some head shakes that there was pressure on that as we move ahead with these increase costs. What this gets to, in my mind, is sort of two points. Mr. McAlpine, you identified one, that is, you said you weren't sure it wasn't better to be using these dollars to put in 6-inch pipes instead of 2-inch pipes.

It could not only address the water, but it could address fire protection and other safety and quality of life issues for your citizens, that's one thing. In other words, are we using the money in the best place in our water system. The other question is are we draining money out of other important services. I don't know that we are yet, although, there are pressures around the country, and there are communities around the country in which we are. That means it could be taken out of health care, out of police protection, roads, whatever it may be. We are starting to see a competition for the tax dollars and fee dollars that are available there. The cost of this is starting to get very high. I would just like to ask any of you if you would like to weigh in on this as to whether you, in the process by which you try to separate and figure out how to obtain necessary resources to deal with the mandates that you face, whether the questions of competing needs in the Government, competing services that are needed to be provided come up in those discussions? Is that—that is not an issue that—Mr. Carr, you look like you're about to say something?

Mr. CARR. I don't think it necessarily is competing against these on other—on other areas. It's what—I think what I've experienced is that when we have a demand on the resources, financial resources, then we've had to find ways that we could cut back and still provide the basic services, but that doesn't necessarily mean that we're able to go beyond the basics. We may not be able to do everything as completely as we would like to, because we don't have all of the financial resources available to do the complete package. We do what we have to do, but we are not—I don't think in a lot of cases—providing the routine so that we protect our infrastructure investments the way that they need to be protected and do the maintenance that we need to do.

Senator CRAPO. Mr. Hardt.

Mr. MCALPINE. Senator, I would like to say, you know in that regard, one of our biggest concerns is keeping up our infrastructure. Our repair and replacement funds for doing that work is being cut

almost to nothing. All that money went into treatment. That was the point I was trying to make. I have water lines in our system that are undersized. People don't have enough pressure, don't have fire protection. I'm sacrificing that so that they can have water that has 80 parts per billion Trihalomethanes or less. I really question, you know, are we really doing the customer, you know, a service in this area. It's very difficult to also explain to them why prior to 2002 it's OK to drink that water, it was OK, met all regulations. After 2002, now we've got a problem.

Senator CRAPO. Mr. Hardt.

Mr. HARDT. On the water side, our rates structure does pay for our capital and operations, and really is relatively competitive with similar size cities in terms of fee structures. On the wastewater side, the system was a much more deteriorating state. We have had to, through consent orders and administrative orders, spend a considerable amount of money, and, therefore, the rate structure could not. Our rates more than doubled on the sewer side, we were not able to fund the capital program even at that pace. That's why we had to go to the State revolving loan fund for the borrowing of some \$250 million plus the ad valorem taxes and other means. Those do compete, either ad valorem community approved taxes or one cent sales tax for capital projects compete against fire stations, police facilities, roads, and all the other infrastructure, flood protection, so it is a very competing and difficult issue to fund on the wastewater side particularly.

Senator CRAPO. All right. Thank you.

Senator INHOFE. Mr. Bourque, you were talking about the average income near poverty level in some 20 percent; is that correct?

Mr. BOURQUE. Yes, sir.

Senator INHOFE. I would just—in my opening statement, I will go back and reread it for you here. It's talking about drinking water. EPA defines affordable as 2.5 percent of the annual median household income, which is \$1,000—that would be \$1,000. The medium amount paid for water in 2001, was \$31. Now, if you take what they consider to be affordable, that would be \$83. Now, in your community with the strapped conditions that you just described, that would mean that each individual, if they were average and they're not, would have to come up with an additional \$52 a month. What kind of a hardship would this impose on people in your area?

Mr. BOURQUE. It's an extreme hardship. Right now they're having a hard enough time paying their bills as it is. When they're not paying their bills, we are having to find some other way to supplement paying for all these improvements. If we went to \$83 a month just on our water utility bills, we would just about have to shut our doors. Our people couldn't afford to pay for it.

Senator INHOFE. What I would like to do for each of you and those representing other communities that are not at the table, is to—granted, if we end up with clean drinking water we didn't have before, that might be different. I'm not sure that's always the case. I would like to have you give to us—not right now, unless it comes to your mind—in your written testimony or something you will submit to us for the record, regulations that you feel honestly, in your own heart, in your own mind, are superfluous, don't really accom-

plish anything, and yet pose the hardship that I just described from the opening statement. Does anything come to mind right now as to what ridiculous types of requirements that might be there that is expensive and yet is not accomplishing its stated goal? Because we get—when I go around and have town meetings, I can tell you at every meeting they come up and say why are they requiring this. So I know you have some testimony in your mind and I would like to have you come forth. We need this. If you expect Senator Crapo and me to help resolve this problem, you have to help us too. So we need to know these things.

Mr. Hardt, you—well, first of all, you mentioned the sales tax increase for capital improvements. I wasn't proud that we had to do it. But when I first was elected there, you were there, and you remember this. I had to do a one cent sales tax increase for the capital improvements. I'm conservative, and I've always been a conservative. Yet we sold that idea after losing it once and people understood that that's what the Government is supposed to be doing. When they are convinced that the—that you have water lines that are leaking into sewer lines, and we have obvious things that have to be done, they will come forward. We demonstrated that in the city of Tulsa. That program that set the stage for a way of measuring the results you got from that.

But, something I think has been very successful. I would like to have you comment on that for the benefit of some of the others here.

Mr. HARDT. We still use the same sales tax package—the concept that you developed in 1980. That is basically a list of projects criteria-based for 5 years worth of sales tax revenue, and then have a sales tax overview committee to provide regular reporting to the elected official's office of how that money is being spent.

Senator INHOFE. After the sun sets, then people will know that it did what they said it would do 5 years before, is that—

Mr. HARDT. That's correct. You are trying to fund a specific list of projects. Then to—if you wish to extend it 5 years later, you provide an additional list of projects.

Senator INHOFE. OK. Mr. Hardt, I think the problem is resolved now, but you brought it up, the tribal designation problem. Here a few months ago, we weren't sure how it was going to turn out. Now, Senator Crapo, we have a lot of tribes. I think I told you when we were flying around this morning, the largest—the capital base is the largest native American population in the country. We have a number of tribes. As I recall, I'm going from memory now, Mr. Hardt, wasn't it just one tribe that was applying for that treatment as a state or was it more than one tribe?

Mr. HARDT. My understanding, there are several that have applied. I wasn't aware that the problem has been resolved.

Senator INHOFE. Right. How would you handle that, I mean, as complicated as this is, if you had three tribes making that application, where would you draw the lines? Who would you apply with? What would that do to your current system as we know it now, that's a State system?

Mr. HARDT. I think it would be unmanageable. We have a number of tribes that are in Tulsa that would fall in that distance in terms of their boundaries. We—if they were allowed to have dif-

ferent water quality standards, we would have to meet the most critical standard and apply it to probably our—because we have two water plants that serve the entire region. So we would most likely have to meet the most compelling severe criteria and go with it.

Senator INHOFE. Yeah, I don't know if you have that problem or not.

Mr. HARDT. Sir, if you have a problem that's been mentioned with changing regulations on the Federal level with EPA our—you really are going to have a changing moving target if you're looking at each tribe being able to adopt their own standards.

Senator INHOFE. Mr. Morgan and Mr. Bourque, I think judging from your opening statements you probably represent the two lowest income areas that are on the panel today. Did you come with any specific figures that you could share with us, as to an individual family rate payer, as to what it was a period of time ago, maybe 5 years ago, and due to a lot of these things, or 10 years ago, and to date?

Do you have any figures you can share with us?

Mr. MORGAN. I don't know—right now I'm going to imagine that our average water bill is \$35 a month. What it was 5 years ago, I really don't know. The affect of having to have a million and a half dollar loans, plus engineers are telling us it's going to cost us about \$3,000 per month in additional chemicals. It's going to go up a lot. We haven't run a study on that yet, so I don't know how bad it's going to affect us, but it will. We don't have any source of income like other cities. The only income we get is from sales water.

Senator CRAPO. I did a little math provided by the numbers in your testimony. One issue that you raised it's going to go up \$590 a year, and it's \$35 a month now, which is about \$420 a year. So it's going to go up over 140 percent on just that one issue.

Senator INHOFE. OK, but, see, that's drinking water alone, and that's also an average, and they're below average.

Mr. MORGAN. That's right.

Senator INHOFE. How about you, Mr. Bourque?

Mr. BOURQUE. In the year 2000, our minimum water bill which encompasses sanitation and sewer, was about \$20. We just increased the rates this year. We're going to be at a minimum bill—this is a minimum standard, which is, I think, based on 1,000 usage, which is what the most elderly deal with, is a minimum bill. We will go to \$30.50, we just passed those increases. So we're \$30.50. We don't know what we're going to have to go to until we seek our funding.

Like I said, we're waiting on our final—we are looking at \$4 million divvied up between 2,500 people.

Senator INHOFE. Well, it sounds like we are intentionally here trying to paint scenarios that are very very difficult or impossible and, quite frankly, that is what we are doing, because we are responsible for trying to do something to lessen that burden and new ways of doing it.

You are right, Norman made up—may be the fastest growing community or in the top three, anyway, right now. You are anticipating by 2040, what you would do and, of course, losing half of

your wells. Now, what is your population today and what are you guessing it will be in 2040?

Mr. KOMISKE. Our population today 102,000. But probably 85,000 of them are served by our water system. The rest are out east toward the reservoir and are on private wells. I don't have that information as far as what our population will be in 2040.

Senator INHOFE. OK. But it is rapidly growing?

Mr. KOMISKE. Yes.

Senator INHOFE. In fact, Senator Crapo asked me as we were flying around this morning about the different sizes of communities. I said it was the largest one, other than Tulsa, that would be represented would probably be Norman. I was guessing at 80,000. That figure—it was pretty accurate just a few years ago.

Let's see. Mr. Bourque, you said something kind of interesting. You said you had to hire a consultant in lieu of using your city engineer. Tell us why.

Mr. BOURQUE. Well, dealing with the CDBG funding when we received the CDBG grant, you have to go out and take proposals, requests, for qualifications. Then based on that, then you go back in, you accept one of the qualifications, then you work on a contract with them, try to work out the contract, approve that, and then you go back to work on this. This is after you've already used an engineer to put this all together and submitted it.

Senator INHOFE. But was yours the case where your engineer did not have the academic requirements or what was it?

Mr. BOURQUE. Right. There was some things they didn't have, they weren't able to do, yes.

Senator INHOFE. So you had to incur the expense of going after a consultant to do that when you had an engineer that, in your mind, would have been able to do, at least, an adequate job?

Mr. BOURQUE. Yes, sir.

Senator INHOFE. How about the rest of you? Have you had—that's a cost that could be considerable. Any of the rest of you have that experience? (No response.) All right.

Mr. Crapo, we're at an hour and a half right now. So we are drawing near to the time that you are going to have to be leaving. Did you have any further questions of this panel?

Senator CRAPO. I just have one quick one, if I might, Mr. Chairman.

Senator INHOFE. Yes.

Senator CRAPO. Mr. Morgan, you indicated in your testimony that your city doesn't qualify for grants. Could you tell me why?

Mr. MORGAN. Just, we are below income. We asked for rural development.

Senator CRAPO. I see.

Mr. MORGAN. The whole county did, the Wagoner County.

Senator CRAPO. Just doesn't qualify.

Mr. MORGAN. Doesn't qualify.

Senator CRAPO. Well, let me just ask the whole panel very briefly for a few brief responses. One of the issues that's been raised here by several of you and that we face nationwide, is that a lot of the very small communities just don't have the economies at scale to be able to make the necessary investments and make the financing all work out on a long basis. So one of the proposals that we are

heavily considering is for those kinds of communities providing grants as opposed to loans, so that we can help them comply with these mandates. My question is, simply, do you think that's a good idea as opposed to the loan? There is some—I am just curious as to what was—

Mr. BOURQUE. That's excellent news to hear. I mean, any time you can receive free money to help with your problem yes, that is a big step forward. You know, everybody has incurred debt at one time or another or will continue to incur debt. But a lot of times these grants that we hear about, they're so hard to compete or they're so many people vying for them, you get on a waiting list, that I would—you know, anything that you send our way, we appreciate. As long as it doesn't have—as long as it doesn't say unfunded mandate.

Senator INHOFE. Let me—you know, there is this concept in Washington, no decision is a good decision unless it's made in Washington. I—that's why I ask and remind you once again, not just you folks, but others represented here today, to give us ammunition. If you have regulations that have been imposed upon you, either by statute or rules that you look at logically and scratch your head and say that's not going to correct any situation, yet, we have to pay for it, I need your feel on my already growing and large list, so I expect you to do that for us. I thank you, the members of this panel, for your straightforward answers. I look forward—we are going to leave the record open for 1 week. How would they do that? My office? OK. Use my—one of my offices—I see Ryan is holding something up in the back. We have some forms back there so—and that goes for those of you who are not on this panel also. I would like to ask those of you that raised your hands and represent a community that's not on the panel today, to come up to the front row and Ellen and I would like to visit with you a little bit, hear any additional things you would like to add to what has already come from this panel. We thank you very much for that. Do you have anything further, Senator Crapo?

Senator CRAPO. I just want to apologize for having to leave so quickly. It's been a pleasure to be here with you and I will continue to work—

Senator INHOFE. These are great people here with serious problems, not unlike those in Idaho.

Senator CRAPO. Right.

Senator INHOFE. Thank you. We are adjourned.

[Whereupon, at 2:55 p.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF CHARLES HARDT, PUBLIC WORKS DIRECTOR, CITY OF TULSA

NON-POINT SOURCE POLLUTION (NPSP)

We strongly encourage development and implementation of regulatory enforcement mechanisms to control NPSP of the Nation's water. Since the early 1970's the regulatory emphasis has been aimed at controlling point source contribution of pollutants to protect and restore the waters of the United States. Whereas, NPSP controls have been implemented on a voluntary basis only, and predominately funded through Federal grant programs. EPA studies and reports identify NPSP as the major cause of water quality impairments nationwide. In the early-1990's the city of Tulsa became cognizant of water quality impairments in one of our primary

drinking water sources. The City commissioned numerous studies to identify causes and sources for this degradation in water quality. NPSP from agricultural activities was identified as the primary source. Absent any regulatory control mechanisms to address these NPSP, the City was required to seek litigious relief. To date the City has spent > \$5 million identifying, monitoring and treating NPSP in this valuable drinking water source.

WATER QUALITY STANDARDS—TRIBAL TREATMENT AS STATES

We strongly encourage legislative amendment to Section 401 of the Act, which authorizes Certification of Water Quality Standards developed by Native American Tribes. Water Quality Standards serve a dual role: they establish water quality benchmarks and provide a basis for the development of water-quality based pollution control programs, including discharge permits, which dictate specific treatment levels required of municipal and industrial wastewater dischargers. The State of Oklahoma alone has 38 federally recognized tribes with noncontiguous tribal lands checker boarding the state. Regulatory permit writers and permittees will have to negotiate a labyrinth of differing water quality standards to establish appropriate pollutant limits to protect water quality. This potentiality appears laborious and onerous for both the regulators and the regulated community.

WATER QUALITY STANDARDS IMPLEMENTATION—SOUND SCIENCE

We strongly encourage the EPA to establish minimum acceptable analytical methodologies, requiring strict adherence to industry-standard quality assurance and quality control protocols, when monitoring water quality for compliance with standards. States are faced with a daunting, and fiscally challenging, requirement to monitor and assess all waters within their jurisdictions to ascertain attainment of standards and designated uses. Due to EPA's ambiguous guidance too often analytical methodologies are selected based on costs instead of quality of data generated. This penny-wise pound-foolish approach to assessing compliance with standards has resulted in waters being erroneously listed as impaired. Water Quality standards and criteria are the regulatory and scientific foundation for a multitude of CWA Programs, such as, total maximum daily loads, national pollutant discharge elimination system, non-point source pollution and source water protection just to name a few. Designated use impairments and subsequent listing of waters has significant social and economic impacts for both the regulatory agencies and the regulated communities. Recently, the City expended \$20,000 collecting and analyzing samples of our urban streams to invalidate erroneous listings due to use of data generated by a third party using a field screening kit. This concern was echoed in a GAO Report "Watershed Management—Better Coordination of Data Collection to Support Key Decisions" June 2004.

BLENDING POLICY

We strongly support a national Blending Policy that would allow POTW to operate their systems as necessary to meet the effluent standards in their NPDES permits. Current restrictions in NPDES permit language prohibit bypassing secondary treatment processes. Forcing all flow through the secondary process during peak inflow events (storm related) can cause effluent water quality degradation due to solids washout of the secondary processes. Blending and disinfecting partially treated wastewater with high quality secondary wastewater often will improve the overall quality of the POTW effluent. Here again, the POTW should be given the discretion of when it is appropriate to blend as long as they comply with their NPDES effluent limits. The city of Tulsa has spent approximately \$50,000,000 on basins to store excess flow and has an annual cost of approximately \$200,000 for operation and maintenance of these facilities. Tulsa will have to continue to invest in additional excess flow storage unless a blending policy is adopted.

404 PERMITTING—WETLANDS TAKING

We strongly encourage the U.S. Army Corps of Engineers to reconsider implementation policy in urban settings regarding this Section of the Act. Currently, the City is required to provide in-kind replacement of wetlands at a 3 to 1 ratio, or provide a pond when removing a riverine environment. We are required to design channels that have enough tree cover to protect aquatic habitat and provide enough pools to allow for mobility of biota. This is not very conducive to providing flood and erosion control in limited right of way situations. As we are moving into areas that have developed along side waterways it will become even more challenging to design flood control projects, to protect public health and property, while attempting to maintain

rural aquatic habitats. Concurrently, our citizens expect us to protect public health from vectors and pathogenic organism that accumulate in and around these stagnant pools.

SAFE DRINKING WATER ACT

DISINFECTION/DISINFECTION BY-PRODUCT RULE STAGE 1 (D/DBP1)

We encourage the EPA to return to establishing health-based standards to ensure safe drinking water and abandon their new course of prescriptive regulations as "treatment techniques". The D/DBP1 has established a treatment technique requiring removal of a surrogate precursor, i.e., total organic carbon (TOC), which may produce DBPs, that has no health-based criterion. If a water system fails to meet this percent removal requirement, then they are required to notify the public within 30 days that there water may not be safe to drink, even though the water system may be in compliance with the health-based standards for the DBPs. This requirement could result in; loss of public confidence in the safety of their drinking water, when no health-based standard has been violated; and dilute the impact of public notification of violations that really are a public health concern.

PROPOSED LONG-TERM 2 ENHANCED SURFACE WATER TREATMENT RULE (LT2ESWTR)

We encourage the EPA to reconsider the 2-year pathogen-monitoring requirement designed to categorize source water's potential risk and delineate specific levels of treatment required to protect safety of its drinking water. Many large water systems were required to monitor for these same pathogens in compliance with the Information Collection Rule, which was designed for the purpose of balancing microbial risks against disinfectants, and their resultant by-products, risks. This monitoring redundancy will cost the city of Tulsa ~ \$40,000.

RESPONSES BY CHARLES HARDT TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Tulsa was required to complete a vulnerability assessment of its drinking waste facility by the Bioterrorism Act of 2002. Tulsa, though not required to, also completed an assessment of its wastewater treatment facility. It is also my understanding that the City is coordinating the security of these two facilities with other critical infrastructure. Can you elaborate on the security activities the City has undertaken, including the cost of the assessments to water and sewer facilities and why the City addressed the wastewater plant without Federal mandate calling on it to do so?

Response. The city of Tulsa has developed a coordinated, comprehensive plan and program for reducing vulnerability of city buildings and occupants to losses and disruption from natural, technological, or manmade disasters. Following the events of 9/11, the City initiated threat or risk assessments of city owned or operated facilities deemed critical to the continued operations of the City. This program was limited to buildings containing critical city services, large numbers of occupants, or hazardous chemicals. Emergency operations plans were updated or developed for all city functions. The water and wastewater systems, in whole, were included in these initial assessments. Hardening, or physical protection measures, at these facilities was implemented at all treatment facilities by placing concrete barriers at entrances, installing automatic gates, clearing vegetation from fence lines, and installing/upgrading electronic security and surveillance systems. Employees have received training in the areas of operational security (OPSEC) and vehicle inspections. Newly adopted guidelines were provided to vendors that routinely deliver to these facilities. Deliveries to plants must be preplanned. Employees are provided regular security briefings and updates of information received from ISAC or other intelligence sources. The City joined the Water ISAC to keep abreast and informed of threats to the water industry. The City received two grants, each \$115,000, to conduct assessments of the Mohawk and A.B. Jewell Water Treatment Plants and ancillary systems. The cost of assessing both water systems was \$230,000. Due to our concern of hazardous chemicals located onsite at the four City operated wastewater treatment facilities, the wastewater systems were assessed as well. Some of these facilities are located near densely populous areas. This additional work was funded locally at a cost of \$118,000.

Question 2. In you written testimony, you discuss the issue of blending. I have been following the issue because as Chairman of the Committee, as I mentioned, I am trying to find ways to fill this funding gap and am quite concerned about anything that will increase it. EPA has issued draft guidance to clarify that blending

is not an illegal bypass as has been alleged. However, it is my understanding that the guidance wouldn't necessarily help Tulsa because the state of OK prohibits blending? Is that not the case?

Response. Currently the Oklahoma Department of Environmental Quality (ODEQ) position is that blending is not in accordance with EPA policy. For this reason, and other concerns, they therefore prohibit blending. Lacking resources to conduct sound scientific investigations to determine the effects blending would have on public health, and the environment, ODEQ has taken the conservative position of prohibiting this practice. EPA's guidance accepting blending will strengthen Tulsa's position to allow blending in future OPDES discharge permits.

Question 3. Also, you may recall that during the hearing, I asked each of you to provide the Committee with those regulations that you believe are not justified by their costs and not achieving its stated goal. I gave each of you the opportunity to respond in writing for the record. I believe it is our shared objective to ensure that our limited Federal resources are used to solve our biggest, most significant threats to human health and to ensure, to the maximum extent possible, that our actions will provide clean, safe water. It is imperative to hear from those of you on the ground, implementing these requirements, which of them are not consistent with this goal.

Response. The Disinfection/Disinfection By-Product I Rule has established a treatment technique requiring removal of a surrogate precursor, i.e., total organic carbon (TOC), which may produce DBPs, that has no health-based criterion. The goal of this treatment technique is to reduce the propensity of water disinfected with chlorine from forming disinfection by-products (DBP), i.e., trihalogenated methanes (THM) and haloacetic acids (HAA), both of which have health-based standards. However, there are treatment processes that can effectively disinfect drinking water, thereby providing protection from microbial threats, which do not produce the aforementioned DBP. As a result of this paradox a water system could be in violation of the treatment technique without posing any threat public health. The city of Tulsa spends—\$100,000 annually to comply with this treatment technique.

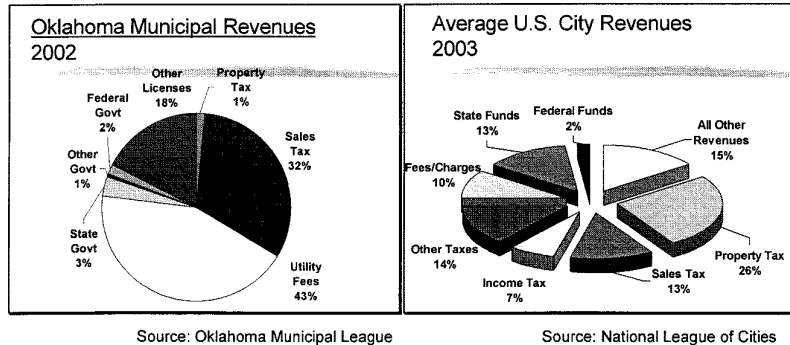
STATEMENT OF F. ROBERT CARR, JR., ON BEHALF OF OKLAHOMA MUNICIPAL
UTILITIES PROVIDERS AND CITIES OF OWASSO AND COLLINSVILLE

INTRODUCTION

The Oklahoma Municipal Utilities Providers (OMUP) is an organization established in January 2003 by the Oklahoma Municipal League (OML) to represent the water and wastewater interests of municipalities. Since inception one and one-half (1½) years ago, two hundred fourteen (214) Oklahoma municipalities have become members of OMUP. This rapid organization growth is indicative of the collective magnitude of concerns relating to water-related issues in the state. Both the city of Owasso (population 22,500) and the city of Collinsville (population 4,300) are members of OMUP.

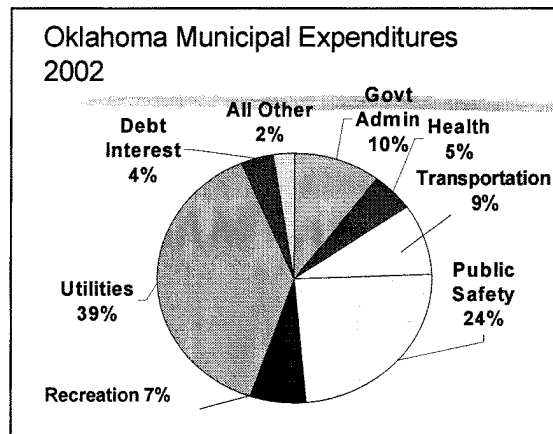
PRESENT FINANCIAL CONCERNS

Data collected by the OML indicate that rural and urban communities in Oklahoma have long-term financial concerns. As shown below, the Oklahoma Municipal League reports that average 2002 Oklahoma municipal revenues were less than 1 percent (1 percent) derived by property tax (comparatively the 2003 national average was 26 percent).



In addition, thirty-two percent (32 percent) of municipal revenues were from sales tax (national average was 13 percent), and forty-three percent (43 percent) were the result of utility fees. No Oklahoma municipality had income tax as a revenue source (whereas the national average was 7 percent).

Average expenditures for utilities were reported to be thirty-nine percent (39 percent) of municipal budgets and, most importantly, comparative revenues and expenditures for Oklahoma utilities are essentially equal. It is also significant to note, the expenditures indicated do not reflect depreciation or any unbudgeted out-of-pocket expenses.



Sales tax revenues have been extremely volatile for the past few years. Municipalities have determined that they cannot count on sales tax revenue for stability.

Many of the municipal budget short-falls experienced have had to be subsidized by utilities revenues. As a result, utilities operations have been stressed to achieve consistent results with limited or non-existent additional funds to meet changing operating conditions. The city of Owasso fiscal year 04-05 Public Works Authority Fund ending balance is budgeted to decrease, as expenses will slightly exceed revenues by year end.

PROJECTED INCREASED COSTS DUE TO REGULATIONS

Data compiled from work done by consulting engineers in Oklahoma, U.S. Environmental Protection Agency fact sheets, information from the Association of State Drinking Water Administrators and Oklahoma Department of Environmental Quality staff indicate the following costs can be anticipated based on new Federal regulations:

Arsenic rule	\$1.25/gallon (construction)
Surface water treatment	\$2.25/month (per connection)
Stage 1 Disinfectant/Disinfection Byproducts	\$2.00/month (per connection)
Groundwater rule	\$0.10/month (per connection)

These data indicate the result is higher costs to each customer. The construction needed may increase water bills by as much as 60 percent per customer.

LOSS OF SECURITY

Municipalities have had the security of being able to make long-term decisions to provide quality water to customers based on the stability of regulations. Changing regulations have complicated that ability. The security of capital investments may be severely impacted with changing regulations.

We design treatment facilities based on the requirements/regulations known today. When the requirements become more restrictive, the alternatives are expected to become more costly. Fewer options are available to the small utility. Economies of scale are more favorable to the larger utility that can absorb additional treatment costs among more customers. To have control of their own operations, the small utility is faced with locating new sources of supply.

The city of Owasso presently is a wholesale customer of the city of Tulsa. Under this scenario, conformance with these new regulations largely rests with Tulsa and costs can be allocated to many users.

The city of Collinsville, on the other hand, operates its own water treatment plant. Costs to achieve regulations conformance by Collinsville must be paid only by its customer based.

A study of the feasibilities of constructing a regional water treatment plant to serve the cities of Owasso and Collinsville (along with two adjacent Rural Water Districts) is presently underway and funded by a \$100,000 grant from the U.S. Environmental Protection Agency. The purpose of the study is to evaluate means for the communities to have fiscal control over the water provided to their customers. Changing regulations can severely impact the results of this study and the long-term decisions being made today.

COST-BENEFIT CONCERNS

The OMUP questions whether costs versus benefit have been adequately addressed prior to implementation of the regulations. In a January 16, 2004 letter from the American Water Works Association (AWWA) to the U.S. Environmental Protection Agency commenting on the proposed rule for Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR), the following was stated:

The Stage 1 FACA [Federal Advisory Committee] members recognized the preliminary nature of much of the science surrounding disinfection byproducts and jointly committed themselves to pursuing a demanding research agenda to fill in the significant gaps.

AWWA, like EPA, looks forward to seeing scientifically defensible health effects data to support formal risk assessments that meet EPA's guidelines and that address stakeholder concerns. With this information, we can help advance an effective and timely research agenda.

AWWA looks forward to the preparation of formal risk assessments that meet agency guidelines for possible DBP-related health effects.

In addition, the AWWA stated:

The EPA cost/benefit analysis supporting the Stage 2 DBPR entails an analytical process with 13 distinct steps. In reviewing this analysis AWWA found significant issues affecting the reasonableness and credibility of the final conclusion in nearly every step.

They went on to say that "EPA may have overstated total benefits considerably."

Similarly, in a January 9, 2004 letter from the American Water Works Association (AWWA) to the U.S. Environmental Protection Agency commenting on the proposed rule for Long-Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), the following was stated:

AWWA is very concerned that the agency's Economic Analysis documents and preamble text have created an unrealistic expectation and implied a significantly greater benefit that will actually be realized through implementation of the LT2ESWTR.

These comments are concerning to OMUP and its member municipalities that are faced with more restrictions and increased costs. OMUP water suppliers are charged with investing public funds in a manner that protects their investments—where there are no uncertainties pertaining to the need for additional improvements to meet future regulations.

STATEMENT OF ARVIL MORGAN, DISTRICT MANAGER, WAGONER WATER
DISTRICT NO. 5

Mr. Chairman and members of the Committee I am Arvil Morgan, manager of Wagoner County Rural Water District No. 5 at Coweta, Oklahoma. I appreciate the opportunity to appear before the Committee today to discuss the impact of increasingly stringent Federal Safe Drinking Water Act requirements on our water district.

Our water district serves 2,550 rural households in southwestern portions of Wagoner County, through 230 miles of distribution line. We operate a 1.5 million gallon per day water treatment plant that was constructed in 1991. Water supply for the district comes from the Verdigris River. We also have emergency backup connections with the city of Broken Arrow, Wagoner County Rural Water District No. 4 and the Town of Coweta.

We currently have an escalating water rate. Our customers pay an average of \$3.20 for each 1000 gallons used and an average monthly water bill of \$35.00.

The Environmental Protection Agency's new Disinfection/Disinfection By-Products Rule went into effect on January 1, 2004. This rule reduced the allowable level for Trihalomethanes (THM's) from 100 parts per billion to 80 parts per billion and set a new level of 60 parts per billion for Haloacetic Acids. To comply with the new regulations, it will be necessary for Wagoner No 5 to upgrade its water treatment process. Improvements that will be required include installation of a pre-sedimentation basin and a clarifier that will treat up to 2 million gallons of water per day. Our engineer estimates that it will cost approximately \$1.5 million to make the necessary improvements.

Our district does not qualify for grants, therefore our project will be completed entirely with loan funds. We expect to apply for financing with USDA Rural Development. Repayment of a \$1.5 million Rural Development loan at 5 percent interest over 40 years will cost approximately \$87,000.00 per year. The district will not be able to absorb these costs and it will be necessary to increase rates to our customers by approximately 10 percent, which would equate to about \$36.00 per user per year. Additionally, our operating costs have increased \$1,500.00 per month. These costs include chemicals and additional labor for water treatment.

In January 1, 2003 systems were required to meet the new Stage 1 Filter Backwash Recycle Rule. Next year we will be required to comply with new turbidity requirements. The allowable level for turbidity will be lowered from .5 NTU's to .3 NTU's and continuous monitoring will be required on each filter. The Stage 2 Disinfection—Disinfection Byproducts Rule will also be implemented next year. This rule will require additional monitoring and reporting on THM's and Haloacetic Acids, increasing system operational and monitoring costs.

There are approximately 250 water systems in Oklahoma that operate water treatment plants. Most of these systems serve less than 3,300 people. For many of these small and very small systems the cost of compliance is an extreme hardship. We also have a shortage of qualified operators in the state. According to the Department of Environmental Quality, we have a 20 percent turnover in operators each year. There are 1,500 new operators annually that need training and assistance to assure proper system operation, maintenance and compliance.

Each new EPA rule has a cost. Compounding of these costs make it more and more difficult for systems to maintain reasonable and affordable water rates. Wagoner County Rural Water District No. 5 is committed to providing safe, potable water to our members. We drink the water that we produce and the quality of our product is very important to us. We want to do what is necessary and reasonable to assure that our water is safe. However, we believe that regulations should be based on sound science and the ratio of cost to benefits should be an important consideration in setting drinking water standards. What we need are practical, reasonable and affordable regulations.

Thank you again for the opportunity to address the Committee. I would be happy to answer any questions.

RESPONSE BY ARVIL MORGAN TO ADDITIONAL QUESTION FROM SENATOR INHOFE

Question. Provide the Committee with those regulations that you believe are not justified by their costs and are not achieving its stated goal.

Response. Of immediate concern to our district is the Disinfection/Disinfection By-Products Rule. We believe that the new Maximum Contaminant Level (MCL) established for Trihalomethanes (THM's) and Haloacetic Acids are excessive and unwarranted. A person drinking ten, eight (8) ounce glasses of water a day for 90 years would only accumulate 1.8 ounces of THM and 1.5 ounces of Haloacetic Acids. Compliance with these requirements is extremely costly and we question whether the benefits of the rule actually justify the high cost. In reality, people do not drink this much water from the same source every day. Other drinks, such as coffee, tea and coca cola contain much higher THM levels than drinking water.

We suggest that EPA be required to justify the regulation by proving that THM's cause health problems.

Another concern is the EPA requirement concerning Total Organic Carbons (TOC's). The rules require a 50 percent reduction in raw water TOC's. The rule does not take into account the difference in raw water quality from system to system. Our raw water TOC's range from 4 ppm to 8 ppm. Other systems may have much higher levels. For example, a system with raw water TOC's of 20 ppm has to reduce its levels to 10 ppb. This is higher than our historic levels and easier to achieve. Our system is being treated unfairly, reduction of low levels of TOC's, like those on our system, requires a lot of chemicals and man hours and substantial expense. The rules need to be sensible and realistic, not a one size fits all approach. EPA also should consider impacts of its rules. The use of large amounts of alum for TOC removal creates excessive amounts of hazardous sludge that could have negative environmental impacts.

The Disinfection/Disinfection By-Products Rule is just one of many EPA regulations that are in the process of implementation, or which will be implemented in the near future. If small water systems are going to meet the continuous stream of Federal mandates and remain financially viable, we must have access to grants and low interest financing to assist in compliance. If water rates get too high, some customers will be forced back to unsafe and unreliable individual water supplies and the public health will be undermined rather than enhanced by Federal regulation.

We appreciate your efforts to ensure that our limited Federal resources are used to solve our biggest, most significant threats to human health. We are committed, as you are, to ensuring that all our members have clean, safe water at affordable rates.

STATEMENT OF TOWN HALL, CITY OF COWETA, OK

The city of Coweta appreciates the opportunity to respond to the request, by Senator Inhofe, concerning the impact of the Safe Drinking Water Act, the Clean Water Act, Security and Bioterrorism Act, and the Stormwater Phase II requirements, which has a tremendous impact and costs on smaller communities.

First, let us address the issues in a global view. It is the city of Coweta's responsibility to provide safe, dependable and cost effective services to the citizens we serve. To provide these services, user fees are traditionally employed to cover the costs associated with the service in question. In smaller communities, especially the bedroom cities, sales tax revenues generally do not generate sufficient revenue to properly fund non-revenue services, such as fire, EMS and police services, just to name a few. The funding gap, from the sales tax revenue to operational costs of these services, is made up through transfers from the water and wastewater revenue stream. Generating the proper operating revenue to support the public works programs has always been of concern, now with so many new programs, it is catastrophic.

The number of unfunded Federal mandates that have recently been enacted are forcing cities into a series of very difficult funding decisions. The result of these decisions can affect the safety and security of its citizens. For example, the potential impact of the Security and Bioterrorism Act may force the city of Coweta to add additional staff just to man the water and wastewater plants, not to mention the additional capital cost associated with additional security measures. Where do these funds come from? For the city of Coweta, they come from other programs, such as public safety, library services, planning and zoning, streets, parks and recreation and the list goes on.

SAFE DRINKING WATER ACT

No one is questioning the need to provide an adequate and safe drinking water supply to its citizens. Potable water, that is in compliance with the public health concerns, is a responsibility that we do not take lightly. However, the sheer plethora of the recent regulations on the Safe Drinking Water Act is a classic example of the frustration felt by many communities. Coweta, a community under 10,000 in population, has just recently been faced with compliance. Fact of the matter is that due to the complexity of these regulations, the Oklahoma Department of Environmental Quality could not clearly define to the city of Coweta what steps are required (until late 2003). This timeframe gave the city of Coweta less than 6 months to comply. Now the city of Coweta is faced with the reality that the existing water treatment facility was never designed for, nor can it meet, the new requirements spelled out in the recent revisions to the Safe Drinking Water Act. Even though the water treatment facility has not served out its design life and the city of Coweta still has bond debt to pay on the original loan.

In addition, the city of Coweta is now faced with the real possibility of having to explain to the public that the water they consumed last year may now out of compliance and continued consumption of this water may lead to cancer or other dreadful diseases or illnesses. Couple this with the adverse publicity and you can only imagine the distrust citizens will now have in a local government that is supposed to be in place to protect them, not harm them with basis services. The end result is that not only is the community facing the need for a new treatment facility, one that will be more complex and costly to operate, but a finished water that will be tested more frequently with an additional sophisticated chemical and biological testing program that has not even been identified. We have not even spoken to the cost of the public notification program to the community, nor the impact of a Watershed Protection Program that is being milled about by EPA.

The city of Coweta is faced with an upgrade and yet do not truly understand what the final requirements are. It is expected that over the next few years that the number of contaminants (MCL's) will increase. This increase will certainly result in additional monitoring, but could also impact the treatment process as well. How do we convey to the public that the new water treatment plant that was just completed may have to be modified again? And that you, the citizens, will be required to pay for the new plan, again.

The only saving grace for the city of Coweta, is the fact that we are not alone. From what ODEQ states, over 60 percent of all surface water treatment plants in Oklahoma will fail to meet the new requirements of the Safe Drinking Water Act.

CLEAN WATER ACT

It is the city of Coweta's duty to properly treat its wastewater before it is discharged back into the environment. Because of the discharge requirements promulgated by EPA, the community has already felt the impact on the Clean Water Act. Now we are paying off the debt from a new treatment plant and waiting for EPA to decide if additional regulations concerning the collection system, CMOM and Fats Oil and Grease will be implemented. The cost for treating wastewater will increase and, as such, will be passed unto the customer.

STORMWATER

Add the above-mentioned to stormwater and you can determine how costly compliance will be on the city of Coweta. Compliance to these unfunded mandate has burdened the city of Coweta in such a detrimental way that recovery may never occur. And, as such, the citizens of this great community lose hope for additional services that will be far outside the funding ability of a community that they call home.

In closing, I would direct your attention to the Unfunded Mandates Reform Act of 1995 (2 U.S.C. §§ 658–658g and 1501–1571) which specifically addresses the very issues stated above. Under the Act, Congress and Federal agencies are required to consider the costs and benefits to state, local and tribal governments and to the private sector before imposing Federal requirements that necessitate spending by these governments or the private sector. The purposes of the Act are to: strengthen the partnership between the Federal Government and state, local and tribal governments; end the imposition, in the absence of full consideration by Congress, of Federal mandates on these governments without adequate Federal funding; provide for the development of information to assist Congress in considering legislation containing Federal mandates; promote informed and deliberate decisions by Congress on the appropriateness of mandates; require Congress to consider whether to provide funding to enact Federal mandates; establish a point-of-order vote on the con-

sideration in Congress of legislation containing significant intergovernmental mandates without providing adequate funding; require Federal agencies to consider the budgetary impact of Federal regulations on state, local and tribal governments; and, begin consideration of the effects of previously imposed Federal mandates.

Congress should be very concerned about shifting costs from Federal to state and local authorities and should be equally concerned about the growing tendency of states to shift costs to local governments; cost shifting from state to local governments has forced local governments to raise property taxes or curtail essential services. Accordingly, the sense of the Senate is that: the Federal Government should not shift certain costs to states, and states should end the practice of shifting costs to local governments; states should end imposition of mandates on local governments without adequate state funding; taxes and spending at all levels should be reduced and the practice of shifting costs from one level of government to another with little or no taxpayer benefit should end. Passage of the Safe Drinking Water Act, the Clean Water Act, Security and Bio-terrorism Act, and the Stormwater Phase II requirements, without funding, will bankrupt communities and that's a fact.

STATEMENT OF KENNETH KOMISKE, PUBLIC WORKS DIRECTOR, CITY OF NORMAN

The citizens of Norman, Oklahoma, realize the importance of water and its role in the continuation of a successful community. The role of water, both potable and non-potable, amounts to our view of the future. The city of Norman continues to plan and address issues faced with adequate supplies of water. Planning for the future resulted in Norman's identification of extended water and wastewater needs that exemplify the situations faced by municipalities around this Nation.

Following is a brief review of the water and wastewater planning occurring in Norman:

STRATEGIC WATER SUPPLY PLAN

In 1999 the city of Norman initiated the development of our Strategic Water Supply Plan. This plan provided a comprehensive overview of Norman's water resources, projected water demands, and identified needed long term steps to meet resource projections. In Figure 1, it is observed that by 2040 Norman will need water supply resources capable of meeting an annual average demand totaling 30 million gallons of treatable water per day. At this time, the citizens of Norman consume an annual average water demand totaling over 11 million gallons per day. The Strategic Water Supply Plan identified steps necessary to achieve this long-term water supply shortfall.

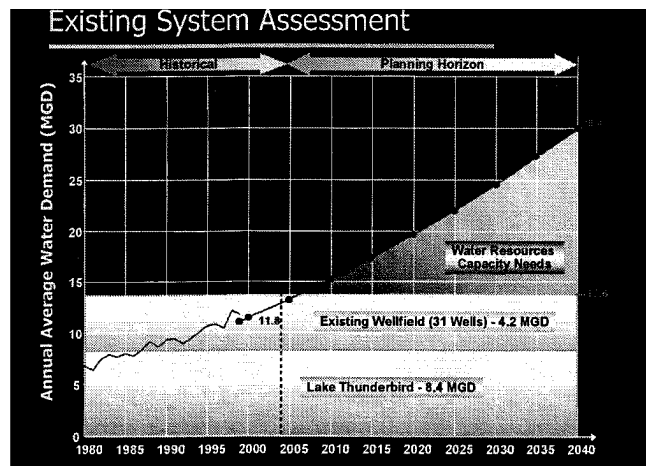


Figure 1 - Annual Average Water Demand Projection

Establishing projections of long term resource needs allowed for the associated projection of peak day water demand capabilities. In Norman, the peak day demand

may be as much as 2.0 times the annual average supply needs. This increase in consumption rates is moderately low when compared to other cities our size and larger. The reduced peaking rate is reflective of our community's desire to use water resources wisely. Although, even with conservation being planned in our future, projections show that by 2040 Norman will need the ability to treat and deliver as much as 60 million gallons of water per day. Figure 2 reflects the projection of peak day water needs.

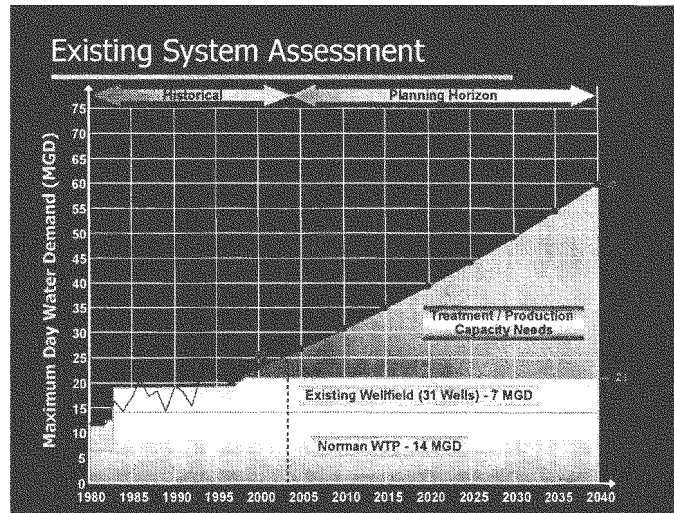


Figure 2 - Peak Day Water Demand Projection

In the past, Norman has not been able to meet the experienced demands whereby requiring the implementation of water rationing measures. These actions did not fare well with the citizens in general.

In 1999, the city of Norman constructed a waterline connecting our system to that owned and operated by the Oklahoma City Water Utility Trust Authority. This connection provides an emergency supply only and does not operate on a day to day basis. This line plays a vital role in the city of Norman's Strategic Water Supply Plan, but is not considered the solution to our water needs due to the high cost of the supply source.

The recommended solution to Norman's water needs, as identified in the Strategic Water Supply Plan, includes an additional 30 water wells, construction of a terminal reservoir in east Norman, increasing water withdrawals from Lake Thunderbird and the purchase of raw water from the Oklahoma City Water Utility Trust Authority. Associated with this eventual expansion of Norman's water treatment plant from 14 to 44 million gallons per day capacity. The capital cost of this option totals over \$80.5 million. This does not include water distribution line improvements or the impact of the Arsenic Rule.

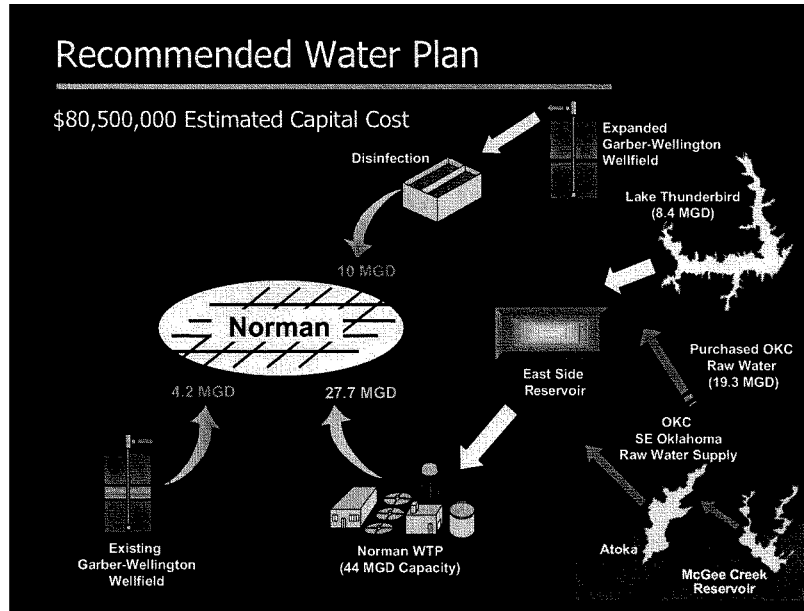


Figure 3 - Strategic Water Supply Plan Recommendation

ARSENIC RULE IMPACTS

Completion of the Strategic Water Supply plan occurred prior to the Arsenic Rule's enactment. Improvements identified in this report are absent of any impact associated with the Arsenic Rule. Upon the signing of the Arsenic Rule into law, the city of Norman initiated an Arsenic Study to determine the impacts expected from the new allowable limits.

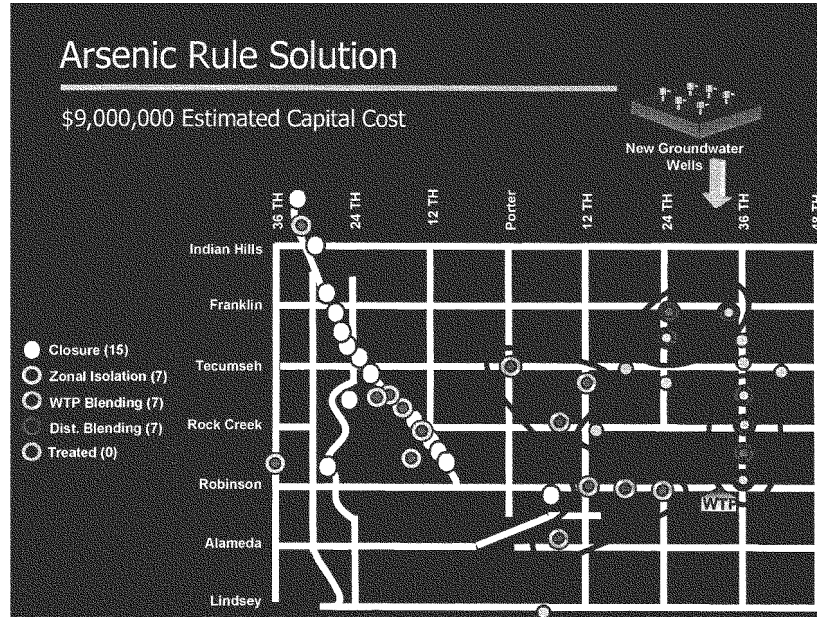


Figure 4 - Arsenic Rule Impacts

The additional cost to the citizens of Norman, in order to be compliant with the Arsenic Rule, was estimated to be \$9 million.

The waters from the wells now deemed unfit for drinking have been in service since prior to World War II. These wells have provided adequate drinking water supplies with no compliance issues until the ratification of the Arsenic Rule. The sudden shift from suitable to unsuitable has solicited fear in many of our citizens. Since being placed on the nation's "Need to Know Danger Zone" by Scientific America calls have been received ranging from "Should I bathe my newborn daughter in bottled water?" to "Is the high Arsenic levels causing my 15-year old son to be so unresponsive to his father and I?". Both of these quotes, from actual conversations, reflect the range of citizen concern over the announcement that our once safe water is no longer suitable. It is commonly asked why the water is now bad and all we have to say is the rule was changed after 50 plus years of operation.

In Oklahoma there are 28 public water supplies that will be non-compliant when the Arsenic Rule goes into effect on January 1, 2006. Norman is the largest water supplier in the state to be impacted by this rule, but we are not alone. As a result of the Arsenic Rule and other water regulations coming into effect, the Oklahoma Municipal League formed the Oklahoma Municipal Utility Providers group to focus on water issues and address technical issues through their Technical Advisory Committee. This group of cities represents both large and small water suppliers and together they are working for solutions to water problems faced throughout the state. With the inclusion of the Arsenic Rule, the Oklahoma Department of Environmental Quality has estimated that over 75 percent of Oklahoma's water suppliers will be out of compliance with one of the many rules coming into effect, all in the name of protecting the public. The Arsenic Rule impacts Norman the most, but other problems exist across the state.

WASTEWATER MASTER PLAN

In 1999 the city of Norman initiated the development of a Wastewater Master Plan to identify the improvements necessary to accommodate the community direction established in the Norman 2020 Land Use and Transportation Plan. The Wastewater Master Plan looked at both sewer line and treatment needs expected as Norman advances into the planned future. These needs resulted in the recommendation that Norman build a new wastewater treatment plant to take advantage of the natural break in terrain existing in the northern region of town. This

decision has been very contentious with certain community groups, but has been voted upon by the public twice and each time been supported by the majority.

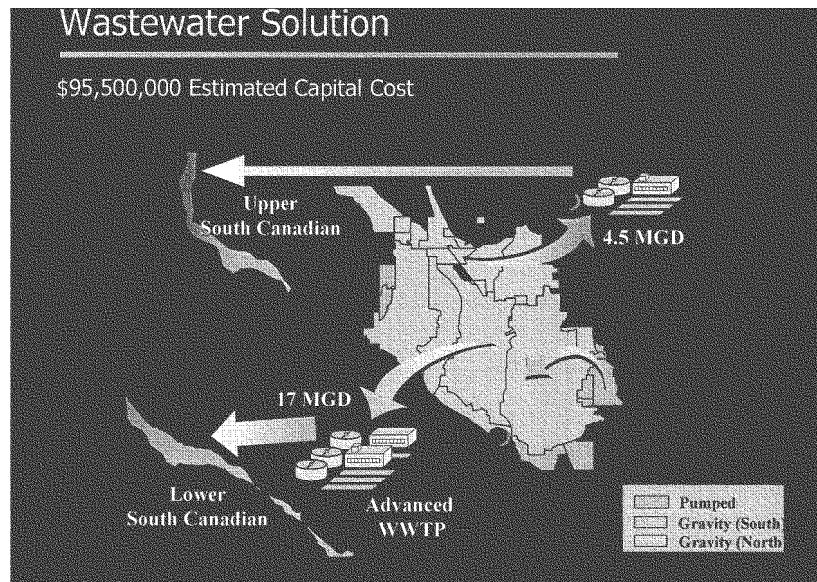


Figure 5 - Wastewater Master Plan Recommendations

The Wastewater Master Plan identifies sewer line and treatment needs and a work plan has been developed to address the long-term needs. The total cost of these planned improvements equals \$95,500,000. Funding for these needs originates from two sources: 5-year 1/2 percent Sales Tax and Excise Tax on all new construction using the sewer system. The Excise Tax, referred to some as an Impact Fee, was the first such established fee in the State of Oklahoma. Challenged in court, the Excise Tax has succeeded in providing a means for growth to pay its own way in Norman.

One of the first steps associated with the new treatment plant in north Norman is to establish the levels by which the wastewater has to be treated. The process of completing a Total Maximum Daily Load (TMDL) study of the receiving stream has begun. Combined efforts of professional engineers from CH2M Hill and the University of Oklahoma are working together in establishing the level of treatment necessary prior to release into the South Canadian River. This effort will last approximately 18 months following a strenuous review to ensure that the stream's health is maintained for the benefit of the public.

SUMMARY

Today, Norman's population is over 104,000 persons. Over 88,000 persons of the total citizenry receive water and sewer service. The needs identified between water and wastewater total \$185,000,000. Funding for wastewater needs are partially established through voter approved sources. No funding is available to meet water supply needs or to become compliant with the Arsenic Rule.

REFERENCES

The complete *Strategic Water Supply Plan* document is available on the city of Norman web site at: <http://www.ci.norman.ok.us/utilities/water-treatment/2040WaterPlan/default.htm> a printed copy of the executive summary is attached for the record.

The complete *Arsenic Report* document is available on the city of Norman web site at: <http://www.ci.norman.ok.us/utilities/water-treatment/arsenic-study.htm> a printed copy of the executive summary is attached for the record.

The complete *Wastewater Master Plan* document is available on the city of Norman web site at: <http://www.ci.norman.ok.us/utilities/waste—water/masterplan/default.htm> a printed copy of the executive summary is attached for the record.

RESPONSE BY KENNETH KOMISKE TO ADDITIONAL QUESTION FROM SENATOR INHOFE

Question. While our committee has generally dealt only with water quality issues and not quantity issues, we are seeing more and more how interrelated these issues are. The situation Norman is facing is an excellent example. With regard to the supply problem, one way to help but certainly not solve the problem that is often discussed is water rationing and incentives to keep water use down. Can you explain more about what Norman did and what exactly the citizen concerns were?

Response. The city of Norman has a water conservation program in effect. All the normal means of communication are used to convince and encourage improved water conservation; such as flyers, hand out materials, media advertisements, educational programs and public discussions. However, when the cost of water is relatively inexpensive, the public perception is that there is not a strong necessity or reason to conserve.

To change utility rates in Norman (water, wastewater or sanitation) it takes a majority vote of the public. Often, this requires a special election. In May 1999 the voters of Norman approved changes to the Water Utility rate structure. The new 'inverted block' rate was established where the more water you use, the higher the commodity rate. The new rate structure accomplished three goals. 1. For low and moderate water users, the rates remained the same; 2. The new higher commodity rates for large residential users strongly encouraged conservation; and 3. The additional revenues help support water supply and distribution enhancements.

Gallons	Old Rate	New Rate in 1999
0–1,000	\$2.01	\$2.01
1,001–2,000	\$1.73	\$1.73
2,001–15,000	\$1.14	\$1.14
5,001–20,000	\$2.00
Over 20,001	\$4.00

The new inverted rate structure accomplished the goal of encouraging conservation. In 1998, over 29 percent of residential customers used in excess of 15,000 gallons per month. There was no financial incentive to conserve. In 2003, with higher rates for large users, fewer than 11 percent of residential customers used in excess of 15,000 gallons per month. Financial incentives help drive conservation.

STATEMENT OF RICK BOURQUE, CITY MANAGER, CITY OF WEKOKA

I would first like to take this opportunity to thank Senator Inhofe and Senator Crapo for holding this hearing and for giving the city of Wewoka the chance to speak out on this very important issue. As Senator Inhofe knows from when he served as the Mayor of Tulsa, managing a city is never an easy task. Unlike the Federal Government, we do not have the capacity to run deficits. Our books must always balance. This is difficult enough in the best of times, but when outside factors like unfunded mandates come into play, it is almost impossible. This is especially true in a small town like Wewoka.

Wewoka is a very diverse town: racially, economically and historically. It was founded by a former Indian slave in the Seminole Nation, has lived through the booms and busts of the oil industry, and has suffered many economic hardships along the way. Seminole County, where we reside, currently has one of the highest unemployment rates in the state, almost 20 percent. Population has been steadily declining for the last several years and so have sales tax revenues. This is true, not just in Wewoka, but in small towns all across the state. I tell you this not to be pessimistic. Actually, we are very optimistic about our future. I merely want to point out that small towns like ours have dwindling resources and cannot afford the cost of heavy-handed regulations and unfunded mandates.

There are many examples of this that I could speak to you about. But in the interest of time, I have limited it to just a few. One example of how unfunded mandates complicate the business of City Government is in the area of excessive and con-

stantly changing regulations in our drinking water. Most cities have a sizable investment in their water treatment facilities. Wewoka is no exception. We take very seriously our duty to provide safe, clean and affordable drinking water to our citizens. However, City management and budgeting requires, not only making the books balance today, but budgeting for the future, as well. This is extremely difficult when the EPA and the DEQ constantly change the standards. Some of the changes are dubious, at best. Take for example, the issue of turbidity. Turbidity, as you no doubt have heard, relates to the cloudiness of water. Just as the lake that supplies our drinking water turns over every year and becomes cloudy or changes slightly in color or transparency, so too does our drinking water. This is turbidity. It does not indicate that there are any new chemicals or trace elements that affect water quality and public health in any way. Neither are these standards remaining static. They are constantly changing. The turbidity standard was recently changed from a level of 1.0 to satisfy the standard to a level of 0.5. It is currently scheduled to be further reduced to a level of .3. These arbitrary standards are having a considerable impact on the ability of small towns to continue providing water to their citizens, without enormous capital expense. This is not the only example of such standards, only one of the more recent.

Another problem I would like to speak to you today concerns our City's sewer treatment plant. The city of Wewoka is currently under a consent order for water infiltration into our system. The consent order states that we will build another facility to replace the existing one and correct infiltration problems in the sewer distribution system. The current project price is around \$4 Million. In trying to comply with the consent order, there have been numerous problems that have only served to delay and complicate the issue and add to the already excessive cost. For example, DEQ and EPA require that the city commission a study to determine the needs and costs involved in making the necessary changes. However, they required that we hire an outside engineer to do the study rather than use the city engineer. Rather than completing the study in-house and with minimal expense, the City had to hire a consultant and pay nearly \$400,000 to complete the study. So, with the prospect of \$4 Million Worth of repairs looming over our heads, which we cannot afford, the bureaucratic requirements are only adding to the problem. Another factor that adds to this problem is that in the 6-years that I have been City Manager of Wewoka, I have worked with 4 different regulators from DEQ and EPA. Each time employment changes, delays occur because the new employee is unfamiliar with our City or the consent order it operates under. Furthermore, regulations change so often that when preparing a final engineering report, we have had to amend our plan several times. Furthermore, they have requested additional information on 3 separate occasions, and they still have not approved our report. All of these factors have delayed the process and have made it more costly.

We estimate that by the time we begin construction on the new treatment plant, we will already be looking at regulations that will put us out of compliance. Once we are under a consent order, we have no other avenues to pursue, other than seeking funding to help pay for these improvements. Naturally, these costs will be passed on to our consumers. We estimate that a surcharge of \$20 could be assessed to every water meter in Wewoka. When one out of every five citizens is unemployed, and the average income is near or below the poverty line, that cost is excessive.

Another unfunded mandate that has caused us problems in the past is in the area of security. Wewoka was recently asked by DEQ to erect an eight-foot security fence around our water treatment facility. By itself, this would not be a crippling requirement. But, considered against the backdrop of so many other costly regulations and over \$5 million in needed upgrades in our water and sewer system, it certainly is. Furthermore, the directives that were issued concerning the fence were constantly changing. The representatives that I met with were certain that I needed a fence immediately. But, when asked, they could not tell me what kind or type of fence was required. They also couldn't point out the regulations that required us to put up a fence. After several conversations with the DEQ's staff, I was more confused than ever. Finally, I asked that they send someone to Wewoka to tour the site and explain exactly the fence I should build and where to put it. In the end, the security fence cost the city of Wewoka over \$10,000. Because it was deemed an urgent need, it had to be done right away. So, this expense to the city was not budgeted. I wish I could say that this situation is unusual, but it isn't. All too often, government regulations are enacted without regard to how they will effect the people on the other end.

That is why I am thankful to have the opportunity to speak with you today and share my concerns over these important issues. I am also grateful to Senators' Inhofe and Crapo for taking the time to meet with us today and giving us an opportunity to express our views. With your help, I know that we can get a handle on

our problems. We sincerely hope that you can lessen the burden that is placed on our cities by excessive regulation and unfunded mandates.

STATEMENT OF CLAY MCALPINE, DIRECTOR OF ENGINEERING, CITY OF MUSKOGEE

Senator Inhofe, as a member of the Oklahoma Municipal League Technical Advisory Committee on Water Issues and the Director of Engineering for the city of Muskogee, I would like to thank you and your committee for this opportunity to speak with you concerning the growing cost associated with the new provisions of the Safe Water Drinking Act. The city of Muskogee operates a regional water treatment plant supplying water to approximately 55,000 people. Although the water treatment plant is old, the City has made numerous modifications and upgrades to meet the needs of the customers and to maintain compliance with the treatment regulations. Our water system was in compliance with all of the provisions of the Act prior to 2002.

January 2002 ushered in new regulations that include the Interim Enhanced Surface Water Treatment Rule and the Stage 1 Disinfection Byproducts Rule. Compliance with these regulations has placed a significant burden on our plant and our budget. We began making modifications to our treatment system in 2000. We were looking for the best treatment method using existing equipment and different treatment chemicals (coagulants) to achieve compliance with the new regulations.

Prior to the recent change in regulations, utilities and chemical costs represented about 50 percent of our overall treatment cost. Utility and chemical costs fluctuate the most and consequently are the hardest to control. Labor, upkeep of equipment and insurance represent the remaining costs. The cost of chemicals has changed as a result of the new regulations. Before the new regulations, chemicals represented about 21 percent of the overall treatment cost. With the addition of the new treatment regulations, we have seen this cost go as high as 37 percent of our overall cost.

As shown in Table I, our cost of treatment chemicals has almost doubled in recent years.

Table I
Annual Cost of Utilities & Chemicals for Water Treatment, Muskogee, OK

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Chemicals	\$259,571	\$410,260	\$570,004	\$537,558	\$428,046
Electrical	\$336,909	\$508,331	\$362,658	\$351,296	\$381,684
Total	\$596,480	\$918,591	\$932,662	\$888,854	\$809,730
Million Gallons of Water Produced	5,227,588	5,680,448	5,005,641	4,378,118	4,296,087
Chemical Cost per 1000 gals	\$0.05	\$0.07	\$0.11	\$0.12	\$0.10
Electrical Cost per 1000 gals	\$0.06	\$0.09	\$0.07	\$0.08	\$0.09

Unfortunately, changing chemicals and increasing their feed rate has not brought our treatment plant into total compliance. Although we are complying with the requirements for Trihalomethane, Haloacetic Acids, and Turbidity, we are still having problems with the Total Organic Carbon (TOC) Removal Rule. Recent plant trials have shown some positive results, and we are confident that we will be able to comply with all of the new regulations within a short period of time.

When treatment cost increase, other items are sacrificed. In this case, funds that could have gone to replace old and aging water system infrastructure have been diverted to treatment. I can't help but question if we are best serving the public's interest by reducing the level of Trihalomethane from 100 part per billion (ppb) to 80 ppb, or should we replace their old 2" water main with a new 6" main that provides fire protection?

I am very concerned with the provisions of the Stage 2 Disinfection Byproducts Rule. These proposed regulations will eliminate the utility's ability to average the Trihalomethane and Haloacetic Acid readings across the system's distribution system. The regulations will require the utility company to identify the areas of the system that have the highest readings and start monitoring these areas for compliance. Complying with these regulations will place an additional burden on the utility company, require changes in the treatment and disinfection process, and once again add additional cost to the treatment process.

The preamble for these regulations, prepared by EPA dated October 17, 2001 do not make a compelling case for the risk associated with the long term exposure to these byproducts. Page 45 of the report states "As in the Stage 1 DBPR, the assessment of public health risk from DBPs currently relies on inherently difficult analyses of incomplete empirical data." The tone of the preamble states "it is appropriate

and prudent to err on the side of public health protection.” I therefore, question if these proposed regulations are truly serving the public’s health interest in the most cost effective manner? Especially, since the added cost is preventing the utility companies from doing more basic improvements that have proven their worth over time.

Our goal is to provide our customers and citizens with an abundant, safe and dependable quality drinking water that meets all health and environmental guidelines at a cost they can afford. Please keep this in mind when reviewing the need for these additional regulations.

Thank you for the opportunity to share our concerns regarding these new and proposed provisions of the Safe Water Drinking Act.

